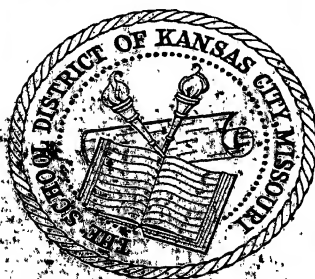


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PAPERS  
OF THE  
AMERICAN  
HISTORICAL ASSOCIATION

VOLUME III.

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NEW YORK & LONDON  
G. P. PUTNAM'S SONS  
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1889



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REPORT OF THE PROCEEDINGS  
OF THE  
AMERICAN HISTORICAL ASSOCIATION

IN BOSTON AND CAMBRIDGE, MAY 21-24, 1887



P A P E R S  
OF THE  
AMERICAN  
HISTORICAL ASSOCIATION

VOL. III. No. I

REPORT OF THE PROCEEDINGS  
OF THE  
AMERICAN HISTORICAL ASSOCIATION

IN  
BOSTON AND CAMBRIDGE, MAY 21-24, 1887

BY  
HERBERT B. ADAMS

Secretary of the Association

NEW YORK & LONDON  
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1888



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# AMERICAN HISTORICAL ASSOCIATION.

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## SECRETARY'S REPORT

OF THE

## PROCEEDINGS AT THE FOURTH ANNUAL MEETING.

BOSTON AND CAMBRIDGE, MAY 21-24, 1887.

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THE American Historical Association has tried the experiment of an early autumn meeting at Saratoga on two occasions: the first, at the time of its organization, in September, 1884, and the second, in the same month of the following year. Twice also the Association has assembled in the early spring: once in Washington, in April, 1886, and again in Boston and Cambridge, in the month of May, 1887. By general consensus all four of these annual meetings have been pronounced highly successful, both in the interest of the exercises and the large attendance upon them. Opinion has been somewhat divided upon the relative advantages of the two seasons for a convention of the Association. On the one hand, the convenience of many members, especially those connected with colleges and universities, seems better suited by a meeting in September, just before the opening of a new academic year. On the other hand, the attractions of spring-time, in such localities as Washington and Boston, cannot be gainsaid. Even a meeting in term-time in such an academic neighborhood as that of Harvard University, the Massachusetts Institute of Technology, and Wellesley

well as the preceding works in this series, *Gray Thunder*, *Southern Thunder*, and *Southern Fire*, is an attempt to begin to fill this void.

Similar to the three previous works, the participants themselves are sought and quoted extensively. It was they, after all—these men in navy gray—who faced the flaming shot and shell of an overpowering enemy. Their words and their expressions convey a sense of “being there” that this author, more than 130 years later, could never hope to match. When their correspondence, reports, and diary entries are studied, one comes to a realization that these men were not ordinary men. True, they lived, they loved, they laughed, and, yes, they cried, but one important factor sets them apart—they lived their lives amid the most momentous and tumultuous era in American history. They were, in fact, the makers of that history.

*Fire and Thunder* introduces the reader to the many and varied facets of what can be properly termed, “Confederate Forces Afloat.” Not all exploits recounted here were the product of the Confederate Navy. Early in the conflict, private citizens applied for and were granted, letters of “Marque and Reprisal” from the government in Montgomery. These privateers, as they were styled, carried the war to Northern commerce while the regular navy was being organized by the Confederate government. Branded as “pirates” by the North, these vessels with names such as *Calhoun*, *Dixie*, and *Jefferson Davis*, made newspaper headlines for a few short months, until Union warships appeared off the Southern ports.

Also found here is the account of the Texas Marine Department which accomplished the recapture of Galveston, Texas with the aid of two steamboats protected by cotton bales. One boat was commanded by a master in the Confederate Navy, the other by an army captain, and both vessels were manned by Texas cavalymen. From this force, after surrendering several ships and destroying another, the remaining Federal forces abandoned the blockade and fled all the way to New Orleans.

The central theme of *Fire and Thunder* is the exhilarating successes—and sometimes the stinging defeats—of the Confederate Navy. For like the country whose flag it bore, the South’s navy was ultimately consigned to destruction. While it lived, however, its courageous leaders, and their thundering guns, became known in every corner of the world. From the CSS *Nashville*, the first Confederate warship to carry the new nation’s banner to England, to the CSS *Shenandoah* which lowered the Confederacy’s last flag almost seven months after the surrender of Robert E. Lee and the Army of Northern Virginia, the South’s navy fought a valiant and courageous fight, and contributed greatly to the defense of the Southern nation.

tion with academic institutions, were obvious to every visiting member.

The special register, which was kept at the clerk's desk in The Brunswick for the benefit of members of the American Historical Association, contains the names of persons attending the fourth annual meeting. Some of the visitors and many resident members neglected to register, but the following revised list of forty-nine names, alphabetically arranged, with places of residence, shows that the Association was well represented:

Herbert B. Adams, Ph.D., Johns Hopkins University, Baltimore, Md.; Prof. E. Benj. Andrews, Brown University, Providence, R. I.; Edmund M. Barton, Esq., Worcester, Mass.; Clarence W. Bowen, Ph.D., *The Independent*, 251 Broadway, New York City; Jeffrey R. Brackett, Esq., Baltimore, Md.; James M. Bugbee, Esq., 24 Pinckney St., Boston, Mass.; Geo. L. Burr, Esq., Cornell University, Ithaca, N. Y.; Nicholas Murray Butler, Ph.D., Columbia College, New York City; Sam'l L. Caldwell, LL.D., Providence, R. I.; Gen'l Henry B. Carrington, U. S. A., 22 Bromfield St., Boston, Mass.; Gen'l Geo. W. Cullum, U. S. A., 261 Fifth Ave., New York City; Andrew McFarland Davis, Esq., 3 Berkeley St., Cambridge, Mass.; Wm. Henry Davis, Esq., Cincinnati, Ohio; Gen'l W. H. H. Davis, Doylestown, Pa.; Prof. Henry Ferguson, Trinity College, Hartford, Conn.; B. Fernow, Esq., Albany, N. Y.; Gordon L. Ford, Esq., 97 Clark St., Brooklyn, N. Y.; Paul Leicester Ford, Esq., 97 Clark St., Brooklyn, N. Y.; Wm. E. Foster, Esq., Providence, R. I.; Arthur Gilman, Esq., Cambridge, Mass.; A. A. Graham, Esq., 2 State House, Columbus, O.; Dr. Albert Bushnell Hart, Harvard University, Cambridge, Mass.; Chas. Henry Hart, Esq., 204 South Fifth St., Philadelphia, Pa.; Hamilton A. Hill, Esq., Boston, Mass.; Rev. Henry F. Jenks, Canton, Mass.; Prof. Alexander Johnston, Princeton, N. J.; Rev. Horatio O. Ladd, University of New Mexico, Santa Fe, N. M.; Mrs. Martha J. Lamb, 30 Lafayette Place, New York City; Hon. Geo. B. Loring, Washington, D. C.; Herbert E. Mills, Esq., Cornell University, Ithaca, N. Y.;

Prof. J. W. Moncrief, Franklin College, Franklin, Ind.; Judge Charles A. Peabody, 60 West 21st St., New York City; Rev. Alfred P. Putnam, D.D., Concord, Mass.; Miss Lucy M. Salmon, Vassar College, Poughkeepsie, N. Y.; Rev. Philip Schaff, D.D., 15 East 43d St., New York City; Mrs. E. H. Schenck, Fairfield, Conn.; Horace E. Scudder, Esq., Cambridge, Mass.; E. R. A. Seligman, Ph.D., Columbia College, 26 W. 34th St., New York City; Miss Emma G. Shaw, 31 Chestnut St., Boston, Mass.; Prof. Chas. H. Smith, Bowdoin College, Brunswick, Me.; Chas. J. Stillé, LL.D., 2201 St. James Place, Philadelphia, Pa.; Wm. H. Tillinghast, Esq., Harvard University, Cambridge, Mass.; Rev. Anson Titus, Amesbury, Mass.; Thos. R. Trowbridge, Esq., New Haven, Conn.; John Martin Vincent, Esq., Johns Hopkins University, Baltimore, Md.; Wm. B. Weeden, Esq., Providence, R. I.; Prof. Arthur M. Wheeler, Yale University, New Haven, Conn.; Hon. Andrew D. White, LL.D., Cornell University, Ithaca, N. Y.; Rev. Wm. C. Winslow, LL.D., 429 Beacon St., Boston, Mass.

#### EVENING SESSION.

SATURDAY, *May 21, 1887.*

The fourth annual convention of the American Historical Association opened on Saturday evening, May 21, 1887, at 8 o'clock, in Huntington Hall, in joint session with the American Economic Association. The exercises consisted of addresses by the Presidents of the two Associations. General Francis A. Walker, President of the Massachusetts Institute of Technology and also of the Economic Association, presented a suggestive and timely paper upon the "Efforts of the Manual Laboring Class to Better Their Condition." The paper will be printed in full in the Proceedings of the American Economic Association. The President of the Historical Association, Mr. Justin Winsor, librarian of Harvard College, chose for the subject of his address the "Manuscript Sources of American History: the Conspicuous Collections Extant." The following is the complete text:

**Mr. Winsor's Address : Manuscript Sources of American History—The Conspicuous Collections Extant.**

I ask your attention to some considerations respecting the manuscript sources of American history, as they exist in this county, both in public archives and in private hands, with a view to suggesting some methods for their better preservation, and for insuring to the historical student a more thorough knowledge of their nature.

The subject is too wide to be considered in all its bearings within the brief space allotted here, and I shall therefore mainly refer to those collections of a more extensive sort which relate to the history of the American Revolution. It should be borne in mind that there was not, during that formative period of our nation, the same rigid enforcement of the rights of government to the official papers of its servants which prevails now. Accordingly, it would be impossible to write the full story of the American Revolution with the documentary evidence left in the hands of the departmental officers of the present day, as a legacy from the Committees and Boards and Congresses which, in those days, conducted our affairs. It is also true, though in a lesser degree, that the English archives and those of the Continent of Europe need also reinforcement from family papers, if we would study completely the same period on the other side of the ocean.

It was this scant care and unstable protection given to government papers during those unsettled times which then made the collection of them in private hands of greater necessity than at present; and threw a larger share of the responsibility of preserving them, then than now, upon the servants of the government in their private capacity. Added to the habit of the time was what always accompanies a revolutionary administration—its lack of an efficient organization for such accessory functions of government as imply a body of archivists. It was then an enforced feeling of responsibility, as well as a consciousness that deeds were enacting which the world would not willingly let die, that insured the collecting and transmission of such masses of

# Chapter One

## **The Privateers Strike the First Blow**

*Whereas Abraham Lincoln, the President of the United States, has by proclamation announced the intention of invading this Confederacy with an armed force for the purpose of capturing its fortresses and thereby subverting its independence and subjecting the free people thereof to the dominion of a foreign power; and*

*Whereas it has thus become the duty of this Government to repel the threatened invasion and to defend the rights and liberties of the people by all the means which the laws of nations and the usages of civilized warfare place at its disposal:*

*Now, therefore, I, Jefferson Davis, President of the Confederate States of America, do issue this my proclamation inviting all those who desire, by service in private armed vessels on the high seas, to aid this Government in resisting so wanton and wicked an aggression, to make application for commissions or letters of marque and reprisal to be issued under the seal of the Confederate States.*

*Jefferson Davis, April 17, 1861.<sup>1</sup>*

\*\*\*

The idea of using privately owned and armed vessels to wage war on the commerce of one's enemy is as old as naval war itself. The French were the first to send out these private raiders of the sea on a large scale. During the Seven Years War, French privateers made several

thousand prizes. Private vessels, sanctioned by the government of King Louis XV, destroyed more than eight hundred British trading vessels when there was scarcely a French ship-of-the-line left to fight the British. During the American Revolution and the War of 1812, American attacks on British commerce were carried on almost exclusively by these privately armed raiders.

Privateering provided a means for a weaker nation to strike a blow at an enemy's commerce, without having to build its own strong naval force. The incentive for private citizens to arm their vessels and attempt to capture the vessels of their country's enemy, of course, was profit—hopefully, patriotism and profit. Rules established in the granting of a letter of marque and reprisal, required that vessels captured by a privateer be sailed to the nearest port of the privateer's origin, where the prize was to be adjudicated by a court of law. If the prize was condemned, meaning the vessel and its cargo were found to be the property of the enemy, the ship and its cargo were sold to the highest bidder with the owners, officers, and crew of the privateer dividing the proceeds.<sup>2</sup>

J. Thomas Scharf, who was a Confederate midshipman during the war, described very accurately the nature of a privateer: *A privateer, as the name implies, is a private armed ship, fitted out at the owner's expense, but commissioned by a belligerent government to capture the ships and goods of the enemy at sea, or the ships of neutrals when conveying to the enemy goods (that are) contraband of war. A privateer differs from a pirate in this, that one has a commission and the other has none. A privateer is entitled to the same rights of war as the public vessels of the belligerent. A pirate ship has no rights, and her crew are liable to be captured and put to death by all nations as robbers and murderers on the high seas. The policy of neutrals recognizing privateers as legitimate belligerent ships is founded on the interest of humanity and the common desire to prevent piracy. If privateers were not recognized by neutral nations they would become pirates, and instead of making prisoners of the crews of the prize vessels, they would massacre them, appropriate the cargoes and sink the ships. But, being recognized, they are under the surveillance of the government commissioning them as well as the governments of neutral nations, and they are responsible for their acts to both.*<sup>3</sup>

The Lincoln government never publicly recognized Southern privateers as anything but pirates, for to do so would have conveyed the connotation that the United States recognized the Confederacy as a belligerent nation. Throughout the war, the Northern government maintained this position, denying any legitimacy to the existence of the Confederate States. To have done otherwise would have revealed that the invasion and subjugation of the Southern states were nothing



The more I study the character of Washington the more I find of that supreme judgment and circumspection which was his distinguishing trait, which so well accounts for most of what he was and of what he did ; and yet we can hardly approve that judgment when he applied it to his own writings. We know that after he had gone through the experiences of the Revolution, and had modified his perceptions by the light of those experiences, he sat down to refashion the correspondence of the French War, and give it the form in which he wished it to go down to posterity ; and it is this redrafting, under the oversight of maturer years, that we read to-day as his record of those young days, when he fought with Braddock and defended the passes of the Alleghanies. Would we not rather have the record as he wrote it, with all its racy immaturity ?

It was an easy thing for Sparks, sixty years ago, without the prompting of the experience which we enjoy, to fall into the belief that what Washington had done himself for his earlier letters, his editor should do for the later ones. I fear that all of us would have done the same under the critical influences which prevailed then, but which have now disappeared. Yet it must be acknowledged that in the general apprehension, at least, the extent to which this rectifying or changing the text of Washington was carried by Sparks, has been exaggerated. That it was done too often is evident, according to our later standards. We have learned that bad spelling or a solecism in grammar may have a significance in certain environments. I am glad to notice that Mr. Bigelow, in the preface to his new edition of *Franklin*, while looking upon Sparks' method as questionable, is free to confess that his own editorial success must be assured, if he makes no more serious mistakes than characterized his predecessor.

One needs only to scan the many scores of bound volumes of manuscripts, which constitute the collection called by Sparks' name at Cambridge, to appreciate the range and variety of research which characterized Sparks as an historical student.

It is about sixty years since these three distinguished students to whom I have referred began to make those preparations which have so fruitfully affected the study of American history, and Sparks was, by a few years, the leader of them. History in and pertaining to America had up to that time accomplished no signal work. We may trace the true historical sense for the first time in Thomas Hutchinson; and in the interval of another sixty years, which followed the publication of his "Massachusetts Bay" and extended to the date when Sparks and Force and Bancroft were making ready for a new era, we can hardly find an historical writer whose insight and breadth of learning gave token of more than a transient value, unless possibly we except Marshall, whose "Life of Washington" deserves more of credit in these days than it has. Its width of research was narrow compared with what would be essential now; and its style has few attractions; but for access to the best resources within his reach, for a discriminating use of them, and for a judgment that prefigured the decisions of his posterity, his book is still greatly worthy of study.

Of the other writers of those same sixty years, Ramsay was the best, decidedly, in a literary sense, and for a long time Ramsay was in his matter the best exemplar of the American side of the Revolutionary struggle which our English critics could cite. Gordon was fussy, timid, and inconsiderate, though his nearness to the events and his acquaintance with the actors gave his book a value on some points where lack of information exists. The work of Mercy Warren, not published till she was past threescore, was that of a woman quick to see, sensitive to the peculiarities of the actors of a contest which she had known, and who, in its earlier stages had been in fact a part of it. Beyond what this implies, her book was far from learned in its details, and not free from a sort of posterior judgment, as John Adams rather too emphatically made known.

We can only judge what we have lost, when Adams himself failed to carry out in his retirement a purpose which he professed at one time to have cherished—of writing the his-

plied the muddy "Father of Waters" often, towing the large merchant vessels against the strong current up river to the Crescent City. Steaming out through Pass à L'Outre this time, however, the *Calhoun* was no longer a towboat. She was now armed with one 18-pounder, two 12-pounders, and two 6-pounder cannon, and her captain, John Wilson, had tucked safely away in his coat pocket, a letter of marque and reprisal. Issued only the day before by the government in Montgomery, it transformed the little steamer into the C.S. Privateer *Calhoun*. As the 508-ton vessel bumped over the bar at the mouth of the pass, she became the first privately armed warship of the Confederacy to go in search of Northern merchantmen.<sup>5</sup>

On April 19, Lincoln had declared a blockade of the Southern coast from South Carolina to Texas, and on the 27th of April, it was extended to include the shores of Virginia and North Carolina. Declaring a blockade was one thing; enforcing it was another. The strength of the Union Navy at this time was woefully inadequate to close all of the Southern ports, and as the *Calhoun* steamed out into the blue waters of the Gulf, not a single enemy warship was in sight. It was not long, therefore, before the New Orleans *Daily Crescent* had some exciting news to print. A columnist on the May 17 wrote that: *Yes, after some days of quietness on the flags, there was something sprung on the stret yesterday ... at about meridian the flags were all on the quid vie about the dispatch from the Pass à L'Outre, announcing the arrival of a vessel, a prize to the private-armed vessel Calhoun.*<sup>6</sup>

The vessel that the *Calhoun* had captured, the first private-armed prize of the war, was the 290-ton bark *Ocean Eagle* out of Rockland, Maine. Her cargo consisted of 3,144 barrels of Thomaston lime which was consigned to Creevy and Farwell in New Orleans. Turning his prize over to a towboat, which pulled the *Ocean Eagle* up river to New Orleans for adjudication, Captain Wilson steamed the *Calhoun* farther out to sea in search of more prizes. Two days later he was rewarded by the capture of two fine vessels. The first was the 699-ton *Milan*, eighty-one days out of Liverpool, with 1,500 bags of salt consigned to Meeker, Know and Company of New Orleans. The second vessel was the *Ella*, a small schooner of 92 tons carrying tropical fruits from Tampico, Mexico, to Pensacola, Florida. Taking the two prizes in tow, Wilson steamed triumphantly back to New Orleans, arriving after sundown on May 19.<sup>7</sup>

The *Calhoun's* owners were jubilant, and New Orleans treated the officers and crew as first rate heroes. Within a few days the Confederate privateer was once again steaming across the bar and heading for the open sea. The alarm had spread, however, and prizes were not as

and to all others, so far as we now have any evidence, it seemed the most natural thing to place these papers in the custody of that society. It was accordingly done, creating a trust. The fact that the papers were accepted, that no comments were made upon their acceptance, and that the claims of the archives of the State as a fitter place were not mentioned, must be taken apparently as showing that the general sentiment of the time was to the effect that the public custody was not necessary for papers which were not needed for administrative reference. The sequel of this history is well known. When the public views changed, and it came to be held that the public custody was the fitter for such papers, the State of Connecticut made an equitable claim on that society for its own archives. The statute of limitations and the sacredness of an assumed trust were the reasons given for declining to make the restitution. It does not seem probable that such reasons can ultimately prevail.

The story of Governor Hutchinson's papers is a more complicated one. You will recall that when the mob, in August, 1765, sacked the governor's house in Boston, his papers were scattered in the streets during a wet night, and we may still see on some of them the stains of the Boston mud of that day, as we turn their leaves in the Boston State House. These papers, as he says, included not only those which he had been for years collecting, in his capacity as historian, but also such as were public papers of contemporary origin, then in his custody. Through the assiduity of the Rev. Andrew Eliot, most of them were gathered up from the pavement, and restored to the governor, so that they all passed into that final collection which was seized after the governor's flight in 1774, and thus became, public and private papers together, the property of the State; and in the possession of the State they all remained until 1821. At that date, a Secretary of the Commonwealth, himself an historical writer, Alden Bradford, separated from these papers such as he deemed no part of the secretary's files, and with the governor's approval presented them to, or deposited them with—for both phrases are used—the Massachusetts Historical So-

that thrusts itself farthest into the ocean off the North Carolina coast, lies Hatteras Inlet. For centuries this channel has provided an avenue of escape from the howling winds and monstrous waves of the turbulent Atlantic. Through this inlet, many struggling vessels and frightened seamen have reached the safety of the placid waters of Pamlico Sound. When the Old North State seceded, Hatteras Inlet and the waters behind the sand dunes in the Sound, soon became a haven for the eager and adventurous privateers.

First to arrive were the hastily-armed vessels of the North Carolina Navy. Upon secession the state had authorized a navy, and the first to arrive at the inlet, under the command of Lieutenant Commander Thomas M. Crossan,

was the NCS *Winslow*, a side-wheel steamer mounting two guns. Commander Crossan would remain in the North Carolina Navy when that state's vessels were transferred to the Confederacy, and would later captain the state's own blockade runner, the *Advance*. The *Winslow* was soon followed by the NCS *Raleigh* and the NCS *Beaufort*. Beginning in May, these North Carolina warships began intercepting Northern merchant vessels off shore and bringing them through Hatteras Inlet to New Bern for adjudication. While these vessels acted as privateers, in reality they were not, because they were publicly owned by the state. The first true privateer to arrive on the scene—on July 25, 1861, with a prize in tow—was a speedy side-wheel steamer from Charleston, the C.S. Privateer *Gordon*.<sup>10</sup>

The *Gordon* had been a packet boat before the war, serving between the ports of Charleston, South Carolina and Fernandina, Florida. She weighed 519 tons and carried a crew of fifty men. Armed with three heavy guns, her letter of marque and reprisal had been received only ten days before. She was commanded by the venerable



Lieutenant Commander Thomas M. Crossan of the North Carolina Navy. Crossan commanded the NCS *Winslow* in early raids through Hatteras Inlet.

Clark, *North Carolina Regiments, 1861-1865*

private. Such are the Washington papers, upon which Sparks has done for us such conspicuous service. Upon these, as well as upon all others of Washington's, wherever found, Congress would do well to devote, for the complete publication, a necessary portion of its surplus revenue, for the time has come when such a monument is due from the country to its greatest character.

Hardly of less importance are the acquisitions made by the State Department of the papers of Madison, Monroe, Jefferson, Hamilton, and, latest of all, its redeeming from pawn the used and unused manuscripts of Franklin.

It is also owing to the action of government that we are to-day enabled, in the library of Congress, to consult the papers of Rochambeau, and other miscellanies to the extent of about five thousand pieces, as Senator Hoar showed, in a paper on the resources for historical study in Washington, which he read before the American Antiquarian Society, a year or two since.

At the same time the government has not bought all it should, though due allowance must of course be made for a natural hesitancy, when, on the part of the possessors of such papers, the demands for payment have been over large. Such, perhaps, was the case in the offers which were made of the papers of General Greene, about which I spent a considerable time lately in endeavoring to find their present resting-place in Georgia, and, if my letters have not miscarried, there is no eagerness at present to give any information respecting them. There is certainly among the military leaders of the Revolution no other to dispute with Greene a second place to Washington; and it is not altogether creditable that the government does not possess the papers of the greatest of the generals of Washington.

In considering the condition of Revolutionary manuscripts, not in the possession of the general government, we may regard them as of three kinds—those in the archives of State authorities, those in the cabinets of institutions, and those in private hands. It will not be necessary to consider any but the most conspicuous collections, though from

inquiries which I have instituted in various parts of the country, I feel sure there are many minor collections about which we would do well to know more.

First, as respects the thirteen original States. Massachusetts has spent largely upon her archives, and they are still under the supervision of commissioners spending a yearly grant. I believe her records to be the most extensive and most valuable of all the States, as they certainly extend, in any considerable amount, farther back into the past. But Massachusetts has done far less than New York, either in printing her archives, or in adding to them by copies from foreign repositories. A series of transcripts from the French archives relating mainly to the French and Indian wars, made for the State by Ben. Perley Poore, is the only accession of this nature to her muniments. New Hampshire has set Massachusetts a good example by the assiduity with which she is printing her records, though it must be borne in mind that the lesser extent of those in New Hampshire renders the task a much easier one. Such of the Revolutionary papers of New Hampshire as were carried off to Nova Scotia by her last royal governor, and are now at Halifax, she has, I believe, taken measures to have copied. Rhode Island and Connecticut are also printing what they have with commendable fulness, though Connecticut naturally finds a considerable hiatus in her Revolutionary records by the absence of the Trumbull papers.

New York has done nobly in the care of her archives. She has acted wisely, as I think, in taking them out of the custody of a political officer like the Secretary of State, and in placing them in the keeping of a ready-made commission, like the Regents of the so-called University of the State of New York, with a trained officer in charge. If we do not owe much to the visionary enthusiasm of Alexander Vattemare, it is satisfactory to place to his credit the instigation which he gave to the New York authorities to take better care of their archives, when he brought to their attention the fact that he had observed the porters of the capitol use the State's old records to wrap for transportation the legislative

documents of a later day. This is said to have been the incentive which led to the employment of Brodhead and O'Callaghan to do their work upon the records of New York, which has placed historical students under such great obligations.

To New York, too, belongs the credit, more than to any other State, of having thoroughly and systematically drawn upon the archives of Europe—England, France, and Holland, in her case—to add to the interest of her own accumulations; and to her, too, is the credit, which belongs, I think, to no other State, of having purchased any considerable mass of papers from private hands, as she did when she acquired the papers of Governor George Clinton.

New Jersey is doing well, both in the publication of the "New Jersey Archives," and in the assiduous efforts which Mr. Stryker, her Adjutant-General, is making to render her Revolutionary history complete.

Neither has Pennsylvania been sparing of pains in the arranging and printing of her documentary history. Maryland has transferred her historical papers to the care of her Historical Society, and, under the supervision of able editors, she is putting her records beyond the risk of accident in print. The archives of Virginia have suffered much, both from the raid of Arnold during the Revolution, and from the hazards of the late war. Something has been done to gather such as are left, and Mr. William Wirt Henry writes to me that in his studies for the "Life of Patrick Henry," he has found that a good deal is preserved after all these mischances. The Carolinas have each drawn to some extent from the London State Paper Office to supplement their own records; but it does not seem clear, from all the information which I can reach, that in the burning of Columbia, during Sherman's march, the archives were saved, though such was believed to be the case at the time, and that the last of the wagons containing them left the town as the Federal army approached.

I have mentioned that in Maryland the State has made the Historical Society the depository of its historical



Then on the August 27, while steaming out through the Inlet, ten vessels were sighted on the distant northern horizon. Seven of them appeared to be man-of-war steamers and the other three were sail-driven transports. Lockwood quickly determined that the little *Gordon* was no match for this armada, and so turned the vessel's head southward. That night he put into Wilmington where the privateer remained for two days. Early on the morning of August 30, the *Gordon* left Wilmington, steamed down the Cape Fear River, and set a course for home. Later that same day, she arrived in Charleston. Within a week, after a heroic, but hopeless, resistance by a pitifully small garrison, the forts guarding the entrance to Hatteras Inlet fell to a combined Federal army and naval force—the same force that Lockwood had spotted as he sped southward. With the inlets in the possession of the enemy, and Union gunboats patrolling Pamlico Sound, prizes could not be brought into Confederate ports for adjudication, and privateering abruptly ceased along the Carolina coast.<sup>14</sup>

While the numerous private and public-armed vessels which sallied forth from Hatteras Inlet were enjoying their successes, the most prosperous of all Confederate privateers was gathering up one merchant vessel after another and sending them under the direction of a prize crew into Charleston, South Carolina. On June 18, 1861, a letter of marque and reprisal had been issued to the 230-ton brig *Jefferson Davis* of Charleston. The *Jeff Davis*, as she was commonly referred to, was armed with five old obsolete guns which had been cast in England in 1801. Two 24-pounders and two 32-pounders were mounted in broadside, and one long 18-pounder was mounted on a pivot amidships. The gun room was well stocked, however, with an ample supply of muskets, double-barreled shotguns, cutlasses, and revolvers. The *Jeff Davis* carried a crew of seventy-five, and was captained by Louis M. Coxetter. She had been built in Baltimore about 1845, delivered to New Orleans, and given the name *Putnam* when she was registered as a trader. Later, under the name *Echo*, the sleek sailing brig had entered the disreputable and illegal business of slave trading. In August of 1858, the *Echo* was captured by John Newland Maffitt, commander of the USS *Dolphin* at the time, and taken into Charleston harbor where she was confiscated. Here she remained until the spring of 1861, when she was purchased by a large group of Charleston businessmen for the purpose of privateering. With the English pivot gun visible amidships, and her hull painted a man-of-war black, the rakish *Jeff Davis* now took on the appearance of a bona-fide warship.<sup>15</sup>

Captain Coxetter, like many privateering commanders, would later earn his fame as a daring and resourceful captain of blockade runners.

are dealt, and these three piles he gave respectively to Harvard College Library, to the American Philosophical Society in Philadelphia, and to the University of Virginia. When those in Cambridge came into my custody some years ago I made inquiries for the rest. The fragmentary character of many a sequence in what was before me made it evident that there were gaps to be filled, if only the other depositories could be found. When these were discovered, I was able by the confidence of the custodians of the other fractions, to bring temporarily the three parts together, and to make clear the strange method of division which had been followed. For instance, of the series of the depositions taken after the affairs at Lexington and Concord, which were sent over to London to the agent of Massachusetts, some had fallen in the deal upon the pile destined for Virginia, and others fell to Harvard, while to Philadelphia chanced to come other documents which should have accompanied the whole to Cambridge. And as in this case, so in others, though I know of no other division of papers made quite as senselessly, among all the scattering of Revolutionary manuscripts.

Of all the semi-public depositories of Revolutionary documents, there would seem to be the largest accumulation in Boston. There are, in the cabinet of the Massachusetts Historical Society, the papers of Governor Jonathan Trumbull, to which reference has already been made. There also is the more important part of those of John Hancock, though some of the earlier ones have finally gone to private collectors. The papers of Josiah Quincy are not numerous, for his early death precluded any large amassment, but such as there are, passing down from the keeping of President Quincy, who embodied most of them in the life of his father, to his daughter, they, a few years since, at her death, came to the same society. Here also are the voluminous papers of Timothy Pickering, though they relate mostly to post-Revolutionary days; but they are deficient in the mass of papers respecting his administration of the Quartermaster's Department, which many years ago were strangely acquired

change. As the sun broke the eastern horizon on Saturday morning, July 6, an excited cry of "Sail ho!" sounded from the masthead. The *Jeff Davis* was about 300 miles off the Delaware coast and was standing on a heading of due south. The sighted vessel, which appeared to be a brig, was sailing northeast. Fearing that the brig's master would become suspicious, Coxetter ordered a slow turn to port and pointed the ship's head toward the northwest. Captain Fitfield of the Philadelphia brig *John Welsh*, out of Trinidad and bound for Falmouth, England with a load of sugar, later narrated the succession of events to a Northern newspaper:

*At 8:30 the privateer tacked and stood N.W., at the same time setting a French ensign, and from the fact of her having French-cut hempen sails we supposed she was a French merchant brig. In answer to her colors we set the Stars and Stripes, and thought no more of the stranger. At 9 o'clock, to our surprise, she fired a shot across our bows, when we took in the studding sails and hove the John Welsh to. We then supposed her to be a French man-of-war brig; but her ports were closed and the guns covered up, while but few men were to be seen on her decks. She came within musket shot of us, and lowered a boat which was manned by expert seamen and contained Lieutenant Postell, late of the United States Navy. Just before the boat came alongside the French flag was hauled down and the Confederate flag run up. In about two minutes afterwards the armed crew was on our deck.*

*After inquiring after my health, Lieutenant Postell desired me to show him the brig's papers. I invited him into the cabin, and after showing them, I stated (that) the cargo was Spanish property. Said he, "You are our prize, and the Spaniards had no business to ship their cargoes in American bottoms."<sup>18</sup>*

Captain Fitfield and his crew were taken on board the *Jefferson Davis*, and a prize crew from the privateer, under the command of J. W. Stevens, was transported to the *John Welsh*. Coxetter instructed Stevens to sail the brig to Savannah, and she soon departed, arriving safely in the Georgia port a few days later. In early September, she was condemned by the Confederate District Court sitting in Charleston, and the vessel and her valuable cargo of sugar was sold at auction.

Captain Coxetter earned a reputation during his tenure as captain of the *Jeff Davis*, as a kindhearted commander who treated his prisoners humanely and with respect. Captain Fitfield attested to this when he continued his narration of the events surrounding his capture:

*After the work of transferring the stores had been completed, Capt. Coxetter mustered all hands aft and said to them, "Boys, if you molest the crew of that brig or their things to the value of a rope yarn, I will punish you to the utmost of my power. Do you understand? Now go forward." Turning to his officers he said, "Gentlemen, I desire that you do everything in your power to make*

mass which he secured at the dispersal of the manuscripts of George Chalmers; the copies which he was allowed to make in the State Paper Office in London, including particularly the diplomatic correspondence of Grantham, Stormont, Sir Joseph Yorke, and others, for Sparks had latterly in mind a purpose to write the diplomatic history of the Revolution, which he was not spared to accomplish.

He also drew upon that great mass of Head-quarters Papers, accumulated by the successive commanders-in-chief on the British side, which are gathered in the Royal Institution, and cited indifferently as the Carleton or Dorchester Papers—the extent of which, there is reason to believe, will be better understood when sundry packing cases in the cellar of that building are examined, and which seem to have been forgotten till recently. The great resource of the Haldimand Papers was acquired by the British Museum too near the end of Sparks' active career for his collection to profit from them; but we owe it to the intelligent action of the Dominion Government, and to the assiduity of the Dominion Archivist, Mr. Brymner, that copies of the Haldimand Papers are now at Ottawa, of which we are given an excellent key in the calendar now in course of publication by that same officer.

It was to the kind interest of Lafayette, and later of his son, that Sparks owed much of his opportunity of access to the archives in Paris, and to the papers of Gérard and Luzerne. Sparks' extracts from the correspondence of the French and Spanish ministry, and his transcripts of the letters of Frederick the Great and his ambassador, touching points connected with the American Revolution, are necessary to complete the survey.

The place next in importance for the study of personal papers is New York, for though they have the Laurens Papers in the Long Island Historical Society, it is in the library of the New York Historical Society that we find the papers of Gates, Charles Lee, Steuben, Joseph Reed, Stirling, and Lamb, the New York artilleryman. The history of the Stirling manuscripts shows one of the kinds of vicissitude, arising

bind, at last backed down, and the following February all of the Confederates were accorded prisoner of war status and removed to military prisons. By summer, Smith and his men, totally destitute and in rags, were finally exchanged.<sup>21</sup>

On Sunday, July 7, 1861, when approximately 150 miles off Sandy Hook, the morning's worship services had just concluded on the deck of the *Jefferson Davis*, when an excited cry announced the sighting of a vessel dead astern. Shortly the bark of the old 18-pounder sent an iron ball skipping across the bow of the schooner *S. J. Waring*. She was out of Brookhaven, Long Island and bound for Montevideo. A prize crew, consisting of Prize Master Montague Amiel, First Mate George Stevens, Second Mate Malcom Liddy, and two crewmen, were quickly thrown on board, and the schooner was soon on her way toward a Confederate port. The subsequent tale of the *S. J. Waring*, however, was to have a gruesome ending.

Coxetter had left William Tillman, a Negro cook, and three seamen from the *S. J. Waring's* original crew on board the schooner. Amiel steered the prize toward the south, being careful to avoid all other vessels. By July 16, they were less than 100 miles from Charleston. That night, with Amiel and Stevens asleep in their cabins, and the second mate at the wheel, Tillman stole into the master's cabin and with several mighty swings from an ax, beat Amiel to a bloody pulp. Running to the second mate's cabin, he struck a savage blow to Stevens' head, killing him instantly. With no alarm having yet been given, the steward crept up behind Liddy who was still at the wheel, and with a mighty swing, struck the second mate a heavy bash to the base of the skull. Grabbing him under his arms and dragging him to the rail, he threw the unconscious man overboard. Going below, and finding the bludgeoned Amiel wailing in pain, Tillman swung his bloody ax again and again until the groaning stopped. Dragging the two bodies up on deck, he threw them overboard. The two remaining privateersmen agreed to work the ship if the burly Negro would spare their lives. Knowing nothing of navigation, the steward kept the coast on his left and headed north. Eventually, the blood-soaked schooner arrived outside the harbor of New York.<sup>22</sup>

Following the departure of the prize *S. J. Waring*, Coxetter kept the privateer's head pointed northward, and two days later a sail was sighted in the early morning light. The *Jeff Davis* spread every inch of canvas, and it was noon before she approached within range of her pivot gun. One thunderous shot and the *Mary Goodell*, commanded by Captain McGilvery and bound for Buenos Aires, rounded to. Finding that the merchant ship's captain had his wife on board, Coxetter placed

students are looking forward, and with confidence, when we consider the strong historical instincts of the Adamses still among us. I am glad to learn that the younger Mr. Charles Francis Adams, who considers his present engrossment with the material interests of the country as but a temporary bar to more genuine service in historical research, has already determined to place the great stores at Quincy in more serviceable condition.

Of the papers of Samuel Adams, the portion which is left is in the hands of Mr. Bancroft, who describes them as very numerous, and as unfolding very fully the manner of molding into a system the acts of resistance to Great Britain. We know, however, that much spoliation of these papers took place, both before and after the death of Samuel Adams. John Adams pictures his kinsman as burning his correspondence in winter, and as cutting it into shreds in summer, to scatter it upon the winds, so that by no neglect of his could any of his associates be implicated, if fortune went against the colonies. Even from among such as were not destroyed, the friends of unstable patriots were said at a later day to have abstracted the evidences of their weakness.

The papers of James and Mercy Warren are also preserved by a descendant, Mr. Winslow Warren of Dedham, and they have never been used as they should be, though from these and from John Adams' papers, there has been put into print a famous correspondence of John Adams and Mercy Warren.

Of Massachusetts soldiers, the papers of General Lincoln, connected with some of the most important events of the war, are still in the family keeping, as are those of General John Thomas, whose career was cut short too early to allow of their being voluminous.

After Massachusetts, the most important local ownership is in New York, where, still in the hands of descendants, are the papers of Philip Schuyler, John Jay, and Gouverneur Morris. In the migrations of families, and the changes of ownerships, we find such personal papers scattered widely

through the land. Those of Charles Thomson, the Secretary of the Continental Congress, are in Memphis; those of Sullivan, the New Hampshire general, are in Boston; those of Meschech Weare, the Governor of New Hampshire, are in New York; those of Wilkinson are in Louisville; those of George Rogers Clark are in Wisconsin; while those of Patrick Henry, Charles Carroll, Anthony Wayne, Cæsar Rodney, and George Read are still preserved near their homes.

The melancholy aspects of the subject are in the losses to be chronicled of some of these personal papers, which would be of the utmost help to us.

When we consider the activity of James Otis, and the wide correspondence which he maintained with gentlemen in all the colonies between 1760 and 1770, and how much was owing to him that the preparation was advanced and ripened for the final co-operation of the colonies, we can appreciate what we have lost in the destruction of his papers, when, in one of the unhappy moments of his aberration, he committed his manuscripts to the flames. John Adams tells how a daughter of Otis said to him that she had not a line from her father's pen. What is left of the papers of James Bowdoin is inconsiderable; those of Thomas Cushing were seized by General Gage, and have disappeared, and we know nothing of those of Joseph Hawley—almost the only citizen in Western Massachusetts who did not join his fortunes to those of the Loyalists. The papers of Joseph Warren were consumed in the burning of a barn in Greenfield, Massachusetts. Much as we know of the early formative days of the Revolution in its birthplace, we can but conjecture what we have lost of the history of Massachusetts and of her relation to the other colonies at that time, in the disappearance of such collections as these.

Only the scantiest measure remains of the papers of Francis Dana. Those of William Whipple of New Hampshire have in the main disappeared. What there is left of the papers of William Ellery hardly recompenses us for the loss of the letters which his friends destroyed at his request.

The papers of Stephen Hopkins were swept away by a flood in 1815, and Rhode Island regrets how her two most eminent citizens in the Senate are without suitable record in this way.

Connecticut is not privileged to treasure the papers of Roger Sherman, which in the main disappeared in a way which no one well understands. Maryland regrets the loss at sea of those of Otho Williams. South Carolina saw the burning of those of Rutledge, and only a small portion of those of Pinckney are still known.

I would suggest, in closing, a method for the better preserving and making known what there is still left to us of the historical manuscripts of the country, not in places easily accessible to the student. My purpose must be obvious to all of you who have watched the progress of the work, as evinced in their successive reports, done by the Historical Manuscripts Commission in England; and I need hardly at this time detail their method and results; but I cannot resist the conviction that our Historical Association could do no better deed than to convince the National Legislature that something analogous, with such changes in method and organization as the conditions of this country suggest, should be undertaken before it is too late, and I shall be glad if some discussion to that end may be entered upon. I may add, in conclusion, that I am prepared to place in the hands of a committee some details of the workings of their methods, which have been sent to me by Mr. Maxwell Lyte, of the Rolls House, the director of the service of the English Commission.

### **Appointment of Committees.**

After the reading of the President's address the following committees were appointed:

1. Committee on Nominations—Judge Mellen Chamberlain, of Boston; Judge Charles A. Peabody, of New York; Mr. Horace E. Scudder, of Cambridge.
2. Committee to Audit the Treasurer's Report—Mr.



# JEFFERSON DAVIS,

## President of the Confederate States of America.

To all who shall see these Presents--Greeting:

Know Ye, That by virtue of the powers vested in me by law, I have commissioned, and do hereby commission, these authorized and do hereby authorize the

(now particularly described in the schedule hereunto annexed,) undersigned to act as a private agent vested in the service of the CONFEDERATE STATES, in the high seas, against the United States of America, their Ships, Ports, Trade, and Effects, and also of their citizens, during the pendency of the War now existing between the said CONFEDERATE STATES and the said United States.

This Commission is continue in force until revoked by the President of the CONFEDERATE STATES for the

Schedule of Description of the Vessel.

NAME.  
Tonnage.  
Armament.  
Rigs, or Colors.

GIVE under my hand and the Seal of the CONFEDERATE STATES at  
Washington, this \_\_\_\_\_ day of \_\_\_\_\_ 1861.

BY THE PRESIDENT.

Secretary of State.

A commission blank used for authorizing a privateer to operate in the name of the Confederate States.

time and the fulness of the programmes rendered social intercourse almost impossible. In the above case, however, a most agreeable change was necessitated by the intervention of Sunday, which afforded not only a day of rest for members who had come from a long distance, but also an opportunity to see something of old friends and to make new acquaintances. To promote the social interests of the two Associations, some of whose members were entire strangers in Boston and Cambridge, Mr. Winsor kindly welcomed them, with accompanying ladies, at his house in Cambridge, 74 Sparks Street, from four to seven Sunday afternoon. After a pleasant social visit not a few members availed themselves of the opportunity to attend the customary evening service in the College Chapel, where the Rev. Phillips Brooks preached.

#### MORNING SESSION.

MONDAY, *May 23*, 1887.

The American Historical Association assembled promptly at 10 o'clock, on Monday morning, at The Brunswick, for its first separate session. Mr. Winsor presided. The room was well filled. Besides regular members, there were also present invited guests from Boston and Cambridge. No effort whatever had been made to attract a large audience, although notices had been sent to individuals. The sessions were, however, well attended by appreciative friends from the very beginning. The proceedings were better reported by the press than at any previous convention. The first paper of the session was read by Herbert Elmer Mills, Fellow in History at Cornell University. The text is here printed in full:

#### **Mr. Mills' Paper : Diplomatic Prelude to the Seven Years' War.**

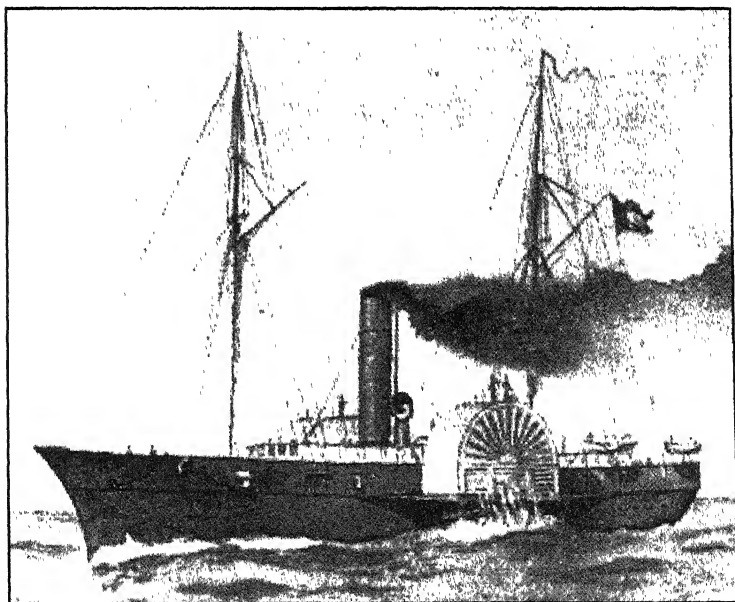
In diplomatic history no more radical and important change has taken place than that which immediately preceded the Seven Years' War. It overturned the alliances of centuries, and reversed long-established national policies.

*Times*—the first warship to carry the flag of this new nation to European waters—was the *CSS Nashville*.<sup>1</sup>

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On May 4, 1861, C. H. Stevens of Charleston, addressed a letter to Treasury Secretary Christopher G. Memminger requesting that a letter of marque be granted him for the steamer *Nashville* which was then lying at Charleston. A second letter, written the same day, was addressed to Navy Secretary Stephen R. Mallory in Montgomery. Immediately, Mallory began to develop a special interest in Mr. Stevens' side-wheel steamer.<sup>2</sup>

The *Nashville* was launched from the Thomas Collyer Shipyard in New York on September 22, 1853. She was 215 feet in length; 34 feet abeam, and drew almost twenty-two feet of water. She weighed 1,221 tons, but after being lightened by the removal of her passenger saloons and luxury appointments, her single side-lever engine could drive her through the water at over 16.5 knots. She had been used in the New York to Charleston passenger run, and happened to be at the South Carolina city when the attack on Fort Sumter signaled the beginning of hostilities. Seized by South Carolina authorities, she was purchased by a group of Charleston businessmen who hoped to convert her into



*The CSS Nashville.*

There is no new information of importance upon the causes of the dissensions in Europe. The Silesian question between Austria and Prussia, and the disputes of France and England concerning American and Indian territorial limits are familiar to all. England and Austria had become estranged on account of a difference of opinion as to the interpretation of the treaties which provided for the maintenance of a barrier between France and Holland; and on account of the sacrifices of Austria at the peace of 1748. England had then in reality forced her ally to make large cessions of territory. The offence taken by the Austrian court at the tone used by the English ministry toward it; the friendliness of the English people for Frederick, and their dislike to the continual payment of heavy subsidies to Austria, with other minor causes, had more or less influence in increasing this ill-feeling. The attempts of England to secure the election of a King of the Romans had increased the hostility of France and Prussia toward the Sea Powers; while the failure of Austria to forward these plans as vigorously as England desired had provoked the English ministry. That the Austrian government had very good reasons for so acting is probably beyond question.<sup>1</sup>

Our interest gathers especially about the Austrian court and the plans of Kaunitz, the greatest Austrian diplomatist of the century, for Austria was the only court desirous of a change of alliance, and Kaunitz proposed and brought about this change. The first point of interest is with regard to the time when this idea was first considered in the Austrian cabinet. Coxe is right in saying that Kaunitz and the empress worked for a better understanding with France from the time that the treaty of Aix-la-Chapelle was signed. But he is decidedly in error in asserting that the negotiations with France were without the knowledge of Emperor Francis or the participation of the ministry. His account is that the matter was an entire secret until it became necessary to lay the treaty before the council of state for con-

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<sup>1</sup> Arneth: "*Geschichte Maria Theresia's*," 10 v. (Vienna, 1863-1879), v. IV., pp. 291, 537.

sideration ; that the empress then affected ignorance of the whole transaction ; that Kaunitz had scarcely proposed the plan "when the other ministers murmured disapprobation, and Francis, rising with great emotion, vehemently struck the table with his hand, exclaiming, 'Such an unnatural alliance is impracticable and shall never take place!' and instantly quitted the apartment." The rest of the account is to the same purport, that the empress pretended ignorance, but being convinced, promised to further the plan.<sup>1</sup>

In reality this proposition was made in the early part of 1749, at a state council called by the empress to consider the future policy of Austria. The emperor did favor a continuance of the old alliance, but there occurred no such scene as Coxe describes. Some of the ministers favored the plan, although doubtful of the possibility of its accomplishment. The decision of the empress was virtually to adopt it, but to avoid any open declaration that would offend the Sea Powers. The policy of the Austrian court was, from 1749, a union with France, if this could be brought about, but there must be no rupture with England until the new policy was sure of success.<sup>2</sup>

In pursuance of this plan, Kaunitz was sent to Paris in 1750. But, although he was personally very popular, he was unsuccessful. In the spring of the following year he wrote to the empress that there was not the slightest prospect of bringing about a separation between Prussia and France. He even proposed that Austria henceforth endeavor to win the friendship of Prussia.<sup>3</sup> Shortly afterward, however, he denied having favored any such policy of reconciliation. Still he left Paris at the beginning of 1753, with no hope that the alliance with France would be accomplished.<sup>4</sup> The story that Maria Theresa wrote to Pompadour, addressing her as her cousin, is by Coxe assigned to this period<sup>5</sup>; by Carlyle to a period two years later.<sup>6</sup> But

<sup>1</sup> Coxe: "House of Austria," 4 v. (London, 1864-1881); v. III., p. 362.

<sup>2</sup> Arneth, IV., pp. 262-285.

<sup>4</sup> Arneth, IV., p. 342.

<sup>3</sup> Arneth, IV., pp. 330-333.

<sup>5</sup> "House of Austria," III., p. 353.

<sup>6</sup> "History of Friedrich II. of Prussia," 6 v. (London, 1859-1865); v. IV., pp. 511, 512.

recently it has been shown by Prof. Herbert Tuttle, in an article in the *Atlantic Monthly*, not only that there is no satisfactory evidence for the story, but also that the presumption is against its being true.<sup>1</sup>

After returning to Vienna to assume the leadership in the ministry, Kaunitz exerted himself to bring about better feeling with England.<sup>2</sup> He seemed to consider that the old alliance promised best for Austria's interests. For a year no minister of rank was sent to Paris. That Kaunitz was at heart still desirous that his earlier project should be accomplished, is probably true; but circumstances seemed to prevent success, and he adopted the only other course.

In the meantime the dispute between France and England over their colonial boundaries in America and India had been approaching a climax. War could not be very long delayed. It was expected that Prussia, as the ally of France, would attack Hanover, the only continental possession of the king of England. This would involve the whole continent. It has been stated commonly that France suggested to Prussia that she attack Hanover as soon as war broke out. Frederick himself, in his account of the Seven Years' War, makes the following statement: "M. Rouillé, alors ministre des affaires étrangères, dit un jour à M. de Knyphausen. . . . 'Érivez, monsieur, au roi de Prusse qu'il nous assiste dans l'expédition de Hanovre, il y à là de quoi piller: le trésor du roi d'Angleterre est bien fourni; le roi n'a qu'à la prendre; c'est, monsieur, une bonne capture.' Le roi lui fit répondre que de pareilles propositions étaient convenables pour négocier avec un Mandrin,<sup>3</sup> et qu'il espérait qu'à l'avenir M. Rouillé voudrait bien apprendre à distinguer les personnes avec lesquelles il avait à traiter."<sup>4</sup> Ranke accepts this statement of the virtuous and deeply offended Frederick, and presents corrobora-

<sup>1</sup> *Atlantic Monthly*, January, 1887, pp. 103, 104.

<sup>2</sup> Arneth, IV., pp. 353, 354.

<sup>3</sup> "Louis Mandrin, fameux contrebandier, roué à Paris, le 26 mars, 1755."

<sup>4</sup> "Œuvres de Frédéric le Grand," 30 v. (Berlin, 1846-1856); v. IV., p. 29.

American naval officers were in the act of forcibly removing Slidell, Mason, and their secretaries from Her Majesty's ship, while enraged British officers were held at bay by the leveled bayonets of United States Marines. Captain Charles Wilkes of the *San Jacinto* hustled the prisoners aboard his warship, and immediately headed for Boston where he was initially hailed as a hero. The illegal abduction of the Confederate delegation on the high seas from a British ship would soon bring the United States and England to the very brink of war.<sup>9</sup>

At 9:00 a.m. on the morning of November 19, the *Nashville* was approaching the western coast of Ireland, when a sail was spotted over the bow standing toward the cruiser. The two ships approached one another, with the captain of the oncoming vessel expecting to exchange the customary salute with the strange side-wheel steamer. Just as they arrived abeam, Pegram ordered the Confederate flag raised, the little 6-pounders uncovered, and demanded the immediate surrender of the ship. Not knowing what was in store for him or his craft, Captain Nelson of the 1,482-ton *Harvey Birch* lowered the United States flag and ordered her rounded to. She was a beautiful clipper ship, bound from Le Havre to New York, but was running in ballast.

*I then ordered the captain to come on board with his ship's papers, Pegram wrote, and after a careful examination of these, one of the officers of the Nashville went on board of the Harvey Birch, and after transferring the officers and crew (thirty-one in number) on board the Nashville, with their personal effects, set the Harvey Birch on fire. Before she was lost to our sight, her masts had gone by the board and she had burned to the water's edge.*<sup>10</sup>

With the black smoke from the *Harvey Birch* spreading across the western horizon, the *Nashville* turned her head eastward and continued on course toward Southampton. News of the destruction of the *Harvey Birch* made sensational news in the English press. Almost overnight, insurance rates for American shippers skyrocketed, and many companies advised their captains to remain in port. None realized that the destruction of this one clipper signaled the beginning of a long and successful war against American commerce—a war that would see American merchant vessels virtually driven from the sea.

The *Nashville* dropped anchor at Southampton on November 21, 1861, and Pegram immediately released the 31 crewmen and passengers from the *Harvey Birch*. The mystery of the *Nashville's* visit to England is only deepened by the next paragraph in Pegram's report to Mallory: *Immediately upon my arrival at Southampton I communicated, as instructed, with Lieutenant North, C.S. Navy, and the Hon. William L. Yancey, and apprised them of your instructions, having previously shown these to Captain Bulloch, C.S. Navy, at Bermuda.*<sup>11</sup>

this statement. Arneth finds no trace of correspondence between them during all this time except one letter about an unimportant lawsuit in the Netherlands, in which Mme. de Pompadour was interested.<sup>1</sup> Starhemberg had been sent by Austria as minister to Paris. His instructions were to endeavor to win the friendship of the French in a dignified manner, but to do nothing which would offend the Sea Powers.<sup>2</sup> Kaunitz seems to have made an earnest effort to renew friendly relations with England, but with him this meant help in an attack on Prussia. He soon became convinced that it was out of the question to expect England to assist him in the reacquisition of Silesia. The demands of England upon Austria in the early part of 1755, for assistance against the French in the approaching war, forced Maria Theresa and Kaunitz to come to a decision. On the 16th of August an Austrian court council decided that, since neither France nor England could be relied upon for assistance against Prussia, Austria must remain neutral.<sup>3</sup> But it was seen at once that such a position would be disastrous to Austria; and it was determined to attempt again to form a union with France, and instructions to that effect were sent to Starhemberg.<sup>4</sup> To England evasive replies were given. The English ministry saw that Austria would not protect Hanover, and decided to make propositions to Prussia. Upon this point also Carlyle was in the wrong, since he makes the proposition proceed from Frederick.<sup>5</sup> Schäfer showed some years ago that the suggestion first came from England through the Duke of Brunswick.<sup>6</sup> This was about the seventh of August, 1755. Frederick gave encouraging answers, and suggested that an attempt be made to settle the difficulties by mediation.<sup>7</sup> But in a secret letter to the Duke he said that the English should never extort from him the declaration which they sug-

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<sup>1</sup> Arneth, IV., p. 361.

<sup>3</sup> Arneth, IV., pp. 387 *seq.*

<sup>2</sup> Arneth, IV., pp. 354, 358.

<sup>4</sup> Arneth, IV., pp. 388-396.

<sup>5</sup> Carlyle, IV., pp. 518, 519.

<sup>6</sup> Schäfer, I., pp. 107 *seq.*; 605 *seq.* "Pol. Cor.," XI., p. 246.

<sup>7</sup> "Pol. Cor.," XI., p. 248.



gested.<sup>1</sup> However, this resolution was soon shaken, for only three weeks later Frederick wrote that he had taken into careful consideration the proposition of England, and expressed his willingness to make a convention of neutrality for Germany.<sup>2</sup> The negotiations proceeded with some interruptions, until on the 16th of January, 1756, the Westminster Convention, guaranteeing neutrality for Germany, was signed by Prussia and England. What caused Frederick to change his views so suddenly? Why did he decide that an agreement with England would be advisable? The "Political Correspondence" throws light upon this point. The key to the matter seems to have been Frederick's fear of Russia. In case of war France and England would be occupied with each other; Austria alone, Prussia did not fear; but if Russia should join the number of her enemies the odds were greatly in their favor.

As was stated, Frederick received his first propositions from England through the Duke of Brunswick, and expressed very decidedly his intention of not accepting them. He was not then cognizant of the negotiations between England and Russia, for he had no representative at St. Petersburg. On the 18th or 19th of August he heard from the Hague that a treaty was being negotiated between these two powers.<sup>3</sup> On the 31st he received information that it had been concluded.<sup>4</sup> On the next day he wrote the letter above mentioned which revealed an entire change in policy.<sup>5</sup> When a short time later it seemed possible that England and Russia would reach no agreement, he assumed an entirely different tone, and gave his final assent only when he learned of the conclusion of the convention of St. Petersburg.<sup>6</sup>

What were Frederick's real intentions in making this convention of Westminster? Undoubtedly to keep war out of Germany and protect Prussia from threatening dangers. He fully expected that Russia would be controlled by England.

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<sup>1</sup> "Pol. Cor.," XI., p. 254.

<sup>2</sup> "Pol. Cor.," XI., p. 286.

<sup>3</sup> "Pol. Cor.," XI., p. 265.

<sup>4</sup> "Pol. Cor.," XI., p. 284.

<sup>5</sup> "Pol. Cor.," XI., p. 287.

<sup>6</sup> "Pol. Cor.," XI., p. 418.

But, further, he had no intention of putting an end to his friendly relations with France. The convention with England required no active help from Frederick unless Germany should be involved. His defence of his conduct to the French, who were greatly provoked upon learning of his action, was to the same purport. He claimed that he had done France a great favor since he, in this way, held in check 60,000 Russians and 50,000 Austrians who would otherwise have attacked him and France as soon as war should be declared. There is no reason for doubting his sincerity. He tried to continue his former relations with France,<sup>1</sup> and even proposed a plan for an invasion of England.<sup>2</sup>

It seems to be beyond doubt that the French were sincere in their professions of fidelity to Frederick. They would have nothing to do with Austria until Prussia had deserted them; they were desirous of renewing the treaty which was about to expire, even sending a man of high rank to Berlin to conduct the negotiations; and their expressions of regret upon hearing of the convention of Westminster, and the arguments used to convince Frederick that the blame was his, leave little opportunity for thinking that they would have deserted Prussia.

But Frederick had gone too far, and could not placate the French. They were provoked both because they could not now attack England in her vulnerable spot—Hanover,—and also because a power which they had considered a dependent had ventured to take so important a step upon her own responsibility. Prussia had not consulted France, had even allowed her to send Nivernois to Berlin to negotiate a treaty, only to find upon arriving there that he had gone on a fool's errand. All the efforts of the Austrians, backed by the powerful assistance of Mme. de Pompadour, were exerted to increase the dissatisfaction of the French ministry. The old story<sup>3</sup> that Frederick's high sense of propriety and detestation of immorality prevented his ap-

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<sup>1</sup> "Pol. Cor.," XII., p. 55.

<sup>2</sup> Ranke, p. 136.

<sup>3</sup> Carlyle, IV., p. 512.

pealing to Mme. de Pompadour at this time has recently been shown to be false.<sup>1</sup> His correspondence discloses the fact that he instructed his minister to pay court to her, and to endeavor to win her friendship, and that he was ready, if it should be necessary, to write to her personally.

In Russia the convention of Westminster caused much indignation. Russia had expressly declared when the treaty of St. Petersburg was made that her troops were to be used by England against Prussia only.<sup>2</sup> Vengeance upon her personal enemy had been the principal motive leading the Czarina Elizabeth to form the alliance. Every thing was now changed. To adhere to England would oblige her to fight with, not against, Prussia. Esterhazy, the Austrian minister at St. Petersburg, redoubled his efforts to induce Russia to side with Austria. In the latter part of March a state council at St. Petersburg declared in favor of assisting Austria and of supporting her until Siberia and Glatz were restored.<sup>3</sup> A treaty might have been signed at once, but Austria was unwilling to endanger her prospects of an alliance with France by being hasty in coming to an agreement with Russia. Without giving any offence to Elizabeth the negotiations with her were delayed, and those with France were pushed.

The instructions sent to Starhemberg by Kaunitz in the fall of 1755 authorized him to offer France great inducements to break with Prussia. Don Phillip was to have the Netherlands in exchange for his possessions in Italy; and Prince Conti, a relative of Louis, was to have the support of Austria in his candidature for the throne of Poland. The active participation of France was not expected. Austria would be content if Louis would permit Austria, Russia, and the smaller states to dismember Prussia, and would give financial assistance.<sup>4</sup> Starhemberg approached the king by means of Pompadour and Abbé Bernis.<sup>5</sup> But France demanded Austria's co-operation against England, without

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<sup>1</sup> *Atlantic Monthly*, January, 1887, pp. 105, 106.

<sup>2</sup> Arneth, IV., p. 434.

<sup>3</sup> *Historische Zeitschrift*, XXVII., p. 363.

<sup>4</sup> Arneth, IV., pp. 388, 392. *Hist. Zeit.*, XXVII., pp. 322-327.

<sup>5</sup> Ranke, p. 109.

promising to reciprocate by giving active help against Prussia. Austria, consequently, withdrew her proposition to France, but declared that she was ready to make an alliance with Spain and the other powers to maintain the peace of Aix-la-Chapelle.<sup>1</sup> Kaunitz declared afterward that he took this step to gain time, being confident that Prussia would form a union with England and so cause France to withdraw her friendship. Arneth doubted this statement and suggested that this was an afterthought of Kaunitz to gain for himself credit for political sagacity. Adolf Beer has shown that Arneth was in error, by finding a written statement of Kaunitz, dated the 11th of October, 1755, to the effect that his policy would enable Austria to gain time.<sup>2</sup> In all his negotiations, especially those of this period, Kaunitz played his cards shrewdly, and whenever he did make a false step, he was sharp enough to retrieve himself without injury. The negotiations continued, and Austria and France were on the point of making a neutrality treaty for Germany,<sup>3</sup> when the news of the convention of Westminster reached Paris. Every thing was now changed. The French took the initiative in proposals for a Franco-Austrian alliance. Knyphausen wrote to Frederick that Nivernois would have been instantly recalled from Berlin but for the efforts of Marshal Belle-isle. There was some dispute between France and Austria as to how actively each should support the other; but Kaunitz finally yielded, thinking it best to make some alliance with France, trusting that in time every thing would turn out as desired. On May 1, 1756, the treaty of Versailles between France and Austria was signed. Its contents have long been known. Into the negotiations it is unnecessary to go further. The war soon broke out, and the defensive and neutrality alliances soon became strengthened into offensive alliances. The revolution was, however, practically concluded.

The principal points to be noticed then are that the policy of Austria was, from the peace of Aix-la-Chapelle, an alliance of France and Austria against England and Prussia,

<sup>1</sup> Arneth, IV., pp. 400, 401.

<sup>2</sup> *Hist. Zeit.*, XXVII., p. 333.

<sup>3</sup> Arneth, IV., pp. 414, 415.

but that in 1753 and 1754 the apparent hopelessness of securing this result led her to endeavor to renew an old friendship with England; that the Anglo-Prussian alliance was the suggestion of England, and that Frederick entered upon it to escape the threatening danger from Russia, while intending to maintain his friendship with France; he thought that he could maintain a neutral position between France and England in the coming war; it must be noticed that the claims made by the admirers of Frederick that he was actuated by a noble desire to preserve all Germany from the evils of war are false; he was looking simply to the welfare of his own country; France was sincere in expressing a desire to continue the old alliance, and the rupture was due to Frederick's action; Frederick was not such an example of propriety as Carlyle asserts, while Maria Theresa never wrote the familiar letter to Pompadour ascribed to her. The new material from the Austrian and Prussian archives renders the old historians, especially Carlyle, untrustworthy upon this period. This diplomatic struggle was a game in which Kaunitz was always moving for a position of advantage for an attack on Prussia, while Frederick's moves were for safety. In the diplomatic game Kaunitz beat Frederick, but in the game of war that followed, the Prussian king saved himself from the destruction that seemed certain. The greatest general of the age was finally victorious over the greatest diplomat.

The next paper of the morning session on Monday was by Charles Isham, a graduate of Harvard University, and a member of the New York Historical Society, who gave "A Short Account of the Life and Times of Silas Deane," which is here presented as read:

### **Mr. Isham's Paper: A Short Account of the Life and Times of Silas Deane.**

On the 11th of July, 1778, Mr. Laurens, the President of Congress, was informed that the *Languedoc* frigate of D'Estaing's fleet lay at anchor off Chester, detailed by the

admiral to convey the *Sieur Gérard* and the Hon. *Silas Deane* to Philadelphia, while the squadron, in pursuit of *Howe*, was already under way for *Sandy Hook*.

The ex-commissioner immediately reminded the authorities that the vessel should be saluted from the forts; and Congress, on the 14th, received, with elaborate ceremonial, the credentials of the first minister accredited by France to the United States. According to the terms of his recall, Mr. Deane expected to inform Congress in regard to "the state of their affairs in Europe." But behind the phrase he had reason to suspect a malevolence that became apparent when less disposition was shown to hear him than to collect evidence reflecting on his conduct abroad. He had sailed for France in April, 1776, charged with two commissions—one purely commercial, and the other partly commercial and partly diplomatic. His appointment, in the light of his previous services, cannot be ascribed to accident or favoritism. Deane had been a merchant of acknowledged ability and enterprise, a citizen of the town of *Wethersfield*, near *Hartford*. It was natural that his activity on the Committee of Correspondence for Connecticut should have insured his presence among the delegates from that colony to the first Congress; and had he not instigated, and, in a measure, paid for the successful expedition against *Ticonderoga*, the quality of his work in organizing the army and navy would have demonstrated his fertility in expedients and his energy. Before the adjournment of the second Congress the election of delegates from Connecticut had passed from the Committee of Correspondence to the Assembly. Deane was superseded, and believing that petty local politics had influenced the result, he meditated a controversy with the Legislature, when his engagement to undertake a voyage to France, under instructions from the Congressional Committee of Secret Correspondence, removed him from the scene of his resentments. *Vergennes*, then French Minister of Foreign Affairs, had adopted the theory of his predecessor, *Choiseul*, that the separation of the American colonies from England was, in itself, an important object of French policy;

yet the designs of the Court were so carefully obscured that the American commissioners, subsequently resident at Paris, could never agree in defining them. When Deane arrived at Paris, Vergennes had already employed Beaumarchais to communicate with Arthur Lee in London, and the latter had sent a verbal message to the Committee that a fund had been raised in France for the purpose of assisting America. Beaumarchais had presented to the King a treaty of commerce, which he asserted that Lee had proposed in exchange for aid. Neither Beaumarchais nor Lee possessed, at the time, any other powers than those of secret agents to collect information for their respective governments. The one had no more right to pledge the French court to a subsidy than had the other to constitute himself a minister plenipotentiary.

Deane reached Paris early in July, 1776, with little money and doubtful credit. Beaumarchais had now obtained Vergennes' consent to a system of furnishing the Colonies with stores under the fiction of a commercial house, partially subsidized by the government, but controlled by himself. He was to assume the name of "Hortales," pay for every thing, and in consideration of 2,000,000 francs, absolve the minister from further responsibility. Deane had been instructed to purchase direct from the court, and, if possible, to obtain official recognition. This was denied him, and the firm of "Hortales and Company" was recommended as perfectly reliable. He was, moreover, promised protection as long as he proceeded with caution. After several attempts to fathom the relations existing between Beaumarchais and the ministry, he contracted with "Hortales" for cannon, ammunition, and clothing. The terms, although informal, were in good faith on both sides, and the credit offered was the only way out of Deane's embarrassments. During the remainder of the year he was surrounded by contractors, and officers wishing to serve in the Continental army distracted him by their importunities. Some were recommended by great personages, in terms so laudatory that it seemed hazardous to ignore their pretensions. A proportion were engaged, and the list includes, Lafayette, de Kalb, and

Steuben, as well as du Coudray and Conway. The English ambassador was fully aware of these clandestine movements, and besieged the French court with threats and expostulations. Goods were stopped *in transitu* and vessels detained at the wharves. Accurate, economical business transactions became impossible. Deane struggled on without remittances or advices from Congress—sometimes deceived, sometimes exceeding the letter of his instructions, yet constantly laboring in their spirit to satisfy the demands of the Committee.

In December, 1776, he became a Commissioner from Congress to the Court at Versailles, and was joined by his colleagues Franklin and Arthur Lee. France and England were supposed to be at peace. Vergennes insisted that Franklin would best serve America by giving his presence in France the air of a visit to friends. The subterfuge was virtually enjoined by the ministers. Lee thought he discovered in Franklin's calm good-nature an attempt to patronize him, and in Deane's pre-occupation a design to ignore him. The senior commissioners at last decided that it was useless by argument or explanation to win his acquiescence to necessary measures, and used their power of a majority to expedite the public business. Lee's intimacy with English whigs had already caused him to be suspected by the French government. Thus Deane, in addition to the supervision of his contracts, performed the routine of the Commission, and was the principal intermediary between his colleagues and the Court. Treaties of alliance and commerce were concluded with France in February, 1778, following the news of Burgoyne's surrender. They might have been signed before the victory but for the influence of Spain. Deane had hardly put his name to the instruments when he received notice of his recall, a result of Lee's misrepresentations and the inconvenient consequences of his engagements with foreign officers. The condition of Philadelphia was not adapted to a fair consideration of Deane's situation. The city had recently been evacuated by the British army. During the occupation, toryism had been rampant, and the State was



retaliating with indictments for treason. Disputes over questions of jurisdiction engaged the civil authorities in quarrels with Arnold, the commander of the garrison, who numbered among his sympathizers Deane and the mercantile class.

Robert Morris was identified with the public contracts, and was also known to have engaged in private business with Deane. The fact was not conclusive evidence of breach of trust against either, for the use of private credit to accomplish public ends was inseparable from the weakness of Congress.

While an agent, Deane had been particularly directed to assume the character of a private merchant. The allegations of Lee that he and his partners had amassed 60,000 pounds sterling were calculated to excite prejudice. A portion of his salary had been paid with money deposited by the French government at a Paris banker's. Congress still owed him his commissions, disbursements, and advances. The disturbances and partizanship in and out of Congress postponed the consideration of the claim until he became alarmed. His confidants warned him that he would not be formally indited but evaded. He frequently asked the Congress for an extended hearing, and that auditors might be appointed to examine his accounts.

Lee continued to write, begging that he be kept in attendance, as evidences of irregularities were sure to be forthcoming.

Deane's wife died while he was abroad. His only son and child arrived in France with Mr. John Adams on the day that D'Estaing's fleet had sailed. The desultory attention he had given to private speculation left him at the mercy of middlemen in France, and he knew that he was being ruined. His recall had been peremptory, and precluded the possibility of collecting vouchers or liquidating accounts. Congress could not be expected to endorse him until they knew what he had done. On the other hand, they would not accuse him or proceed to an examination of his conduct.

Indignant at the denial of his services by those whom he considered were anxious to prevent his further employment, and convinced that he was to be made the scapegoat of an impecunious Congress, he took the deplorable resolution of appealing to the public, and on the 4th of December, 1776, published an address wherein he arraigned the Lees, and threatened to review the diplomacy of the war unless justice were done him.

This proceeding was followed by a most imprudent controversy in the newspapers, conducted by well-known men, who signed their articles with catch-words and Latin pseudonyms. Congress voted to hear Deane, and the latter endeavored to withdraw before the storm he had raised, but the appetite for scandal was not to be appeased. Paine abused his office of Secretary of the Committee of Foreign Affairs to quote from the correspondence of the commissioners, and the discussion ranged over matters that could not be regarded as public property. Gérard had been instructed to hold aloof from Deane's entanglements, but the letters of Paine, if allowed to pass unnoticed, would affect the position of France in the terms of a general peace. Accordingly he procured from Congress a disavowal of Paine involving an acknowledgment of Beaumarchais' claim. Lee, perceiving that his own recall was inevitable, ostensibly on the ground that he was not *persona grata* at the French court, redoubled his opposition to Franklin and his abuse of Deane. Congress offered the latter \$10,500 in paper that shortly afterwards ceased to circulate. He refused to compromise his claim by accepting the award, and embarked for France, having been promised that an auditor would be appointed to examine his accounts.

It was midsummer, 1778, when he reappeared in Paris. Franklin urged the contractors to facilitate the liquidation of their accounts with Deane, who needed no incentive, and was even obliged to borrow money to defray his personal expenses. Spain had joined the alliance against England, but had made her own selfish terms with France. Vergennes still contemplated the independence of the United

States. There were, however, territorial concessions to be made to Spain, and an extension of the right of France to participation in the Newfoundland fisheries.

The ministry imagined that the Continental Army was incapable of achieving a decisive advantage, and were irritated by the constant demands of the Congress for money. Deane's observation of the apparently vacillating purpose of the allies led him to doubt their sincerity. He had witnessed in America the misery entailed upon the saving and industrious by the unscrupulous legislation adopted to sustain the value of the currency. Barclay, the United States consul in France, who, he understood, was to settle his accounts, assured him that he had no such powers.

The gloomy outlook and his own misfortunes preyed upon his positive nature. From motives of economy he removed to Ghent, but not before he had sent a series of letters to acquaintances in America, advocating the acceptance of the persistent suggestions of Lord North, that the United States, receiving a large measure of local self-government, should reunite with the mother-country. Deane's argument, very briefly stated, was that foreign nations would be much more likely to adopt the commercial policy of Great Britain than to continue to the United States a freedom of trade, and that England would undoubtedly cripple American enterprise by navigation laws. Deane did not foresee the growth of interstate commerce. Many intelligent patriots were then not in favor of appropriating the territory west of the Mississippi, on the ground that the limits of the republic were sufficiently extended. The perils of the sea would have arrested the pen of a prudent man. Indeed, Deane admitted that his letters, if read in friendly circles, might occasion surprise. Enough of them to ruin him were printed in a column of Rivington's *New York Gazette*, reserved for similar captures, and headed "The Rebel Mail." Before he had forwarded the whole of them, Cornwallis and his army were prisoners of war. The best affected toward the writer might look upon these forebodings as forgeries or the honest manifestations of despondency. To the average American they were trea-

son, and to his enemies proof of every calumny. There is an absence of direct or circumstantial evidence that he was bribed. His lack of influence was conspicuous during his attendance on Congress, and a subject of ridicule in New York. After the peace he crossed to England, where his circumstances showed no sign of improvement. In 1784 he published an address to his countrymen, in which, while rejoicing in the establishment of independence, he pointed out the correctness of his conclusions as to the decline of American trade, and the confusion resulting from Congressional government, amplifying a theme expressed by Washington in one sentence, when he wrote, prior to the adoption of the Constitution: "It remains to be seen whether independence is a blessing or a curse."

Deane now despaired of establishing his claim, yet he was anxious to return to America. He was constantly broaching schemes for developing the resources of the States, and inquiring whether he might safely perfect them on the spot. His relatives were apprehensive that he would be subjected to insult. In 1787 his accounts, long in the possession of Congress, were stated for examination, and a board of audit, presided over by Lee, made an *ex-parte* report, finding a small balance in his favor. This does not appear to have been communicated to him. In 1842 about thirty-seven thousand dollars were paid his heirs. In 1788 he had premonitions of fatal sickness, and resolved to attempt the voyage to America. On the 23d of September, in a dying condition, he embarked on the Boston packet in the harbor of Deal. A few hours later a boat put back to the shore with the body of the broken and destitute man of fifty-two. Silas Deane had been disappointed for the last time in his efforts to reach America, the country he "loved so well that he could be happy in no other."

The third paper read at the morning session was by James Schouler, Esq., of Boston, author of the "History of the United States under the Constitution." The article is here reproduced in full:

### Mr. Schouler's Paper: Historical Grouping.

Not far from where I am now standing, a grateful city has erected a stately monument to its soldiers and sailors who died in the late civil war. This monument was erected about fifteen years after the war was over. At the base from which rises its pure granite shaft, may be seen bas-reliefs in bronze, one for each side, which depict appropriate scenes, with portraits to recall the heroic men who bore part in them. One of these metallic studies idealizes the departure of a Massachusetts regiment, in 1861, for the seat of war. How often do I recall that scene, as I many times witnessed it in impressible youth! Most fitly, the artist's central figure is that of our immortal war governor, John A. Andrew. But among the images grouped about him, that of the man is absent who, next to the governor himself, bore the chief part in organizing and despatching our State troops, and whose face was scarcely less familiar to our Massachusetts soldiers, whether departing or returning. Others historically associated with such scenes are wanting; while among the embossed likenesses more or less appropriate, which are here preserved for posterity, one is that of a distinguished citizen who in 1861 was crying down war, and urging that Southern states be permitted to secede in peace; another likeness recalls a son honored here indeed, years later, but who through this whole period of fraternal strife resided in a far distant state and city. I do not bring up this circumstance for reproach, but because it fitly introduces and illustrates the point to which I wish briefly to direct your attention. My subject is Historical Grouping, or what, perhaps, I might better style Historical Background. Whatever memorable scenes of the past it may be the function of historian or historical painter to recall, he should delineate with scrupulous fidelity to truth the lesser as well as the greater surroundings; his canvas should group those together, and only those, who were actually related to the event and worked out in unison the great event. Two chief considerations enforce this duty: (1) That in the mad zeal of our modern age for present and future, the past is easily overlaid and

obliterated; (2) That while Fame takes decent care of her chief hero, of the actor most responsible, she easily neglects the subordinates, however indispensable their parts might have been. "Set me down as I am" is the common appeal of patriots of every rank to posterity and the impartial historian; and the true relation to the event which the scholar must consider is not that of one individual, but of many, in the nicely graded proportion of foreground and background.

The Chief Executive, the warlike commander, the great personification of his time, him we follow with the eye; we discuss and re-discuss his achievements; we analyze his traits, over and over, even until we obscure them by our own ingenuity; we study his individual growth from infancy up, anxious to discover in a single brain, if we may, the seed which must have germinated in other minds and dispersed results to germinate again and still more widely, before the perfect flower and perfect opportunity could possibly have bloomed. The great hero of the age is still as ever, the man most responsible for what was successfully accomplished: yet what hero ever achieved a great success, except by happily combining the wisdom, skill, and valor of others whose ideas, whose lives were intertwined with his own, and by bringing this whole subordinate force to bear properly upon the occasion? Let us look more particularly to the manifold influences and counter influences which work out the great problems of an age and republican system like our own. The public movements of American society in the present century are not accomplished without the combined force of elements more or less hidden from the casual vision, which in a large degree are coequal. The scholar, the recluse philosopher, the poet, the orator, the editor, the teacher, the legislator, the statesman, gives each an impulse and direction to affairs far greater, in normal times, than the professional warrior. Nor is it the individual mind that sways American politics, but rather the majority or average mind, the mind that has been brought by toilsome precept and discipline to the point of earnest conviction. History has its leaders still; but the leader who unites the highest

expression of thought and action rarely appears in the modern days; our foremost administrator is apt to be more vigorous than original, and in this country, at least, we look no longer for the autocrat, the warrior chief, who plans conquests and drains his people that he may march an army whithersoever he will. A further thought rises in this connection: namely, that the reputation once achieved has now no sure bulwark to protect it. The sacrificial days are over. The people observe no longer the calendar of their demigods. Ulysses cannot reckon upon offices of tenderness, when he is gone, from his blameless Telemachus. So great and so constant becomes the pressure and counter pressure of ideas in our modern life, that civilization seems to wear into the solid land itself, like some turbulent torrent, washing away at one bank and bringing down alluvium at another. The past, with its traditions and examples, is ignored; not that we mean to falsify, but that we are indifferent to it; novelties absorb the present attention; the son cavils at the faults and limitations of the father; and in the headlong and incessant push and jostle of men, parties, and ideas, it is not enough for fame that a man filled well the measure of his own age, if a new age requires new measures.

Such being our present situation, in place of the few ambitious great, we find the scope fast enlarging for the many men and their petty and manifold ambitions. And no easier or cheaper means of gratifying a petty ambition can be found than in clustering about the leaders who have gained recognition and come into fashion, buzzing at their ears, and borrowing somewhat of the lustre and prestige of good neighborhood. Of the deserving recipients of applause some die late, some early; all do not leave their papers sorted and ready for posterity to judge of their own admitted inspiration. Here, then, is the opportunity for the parasite, the flatterer, the eleventh-hour convert, indeed for all survivors who can grasp the key of the situation for themselves and their friends, to work seasonably upon the platform and into the conspicuous background, when the artist appears: just as loiterers elsewhere insinuate themselves into a group when

they see the camera mounted. The picture is taken and placed on exhibition for the admiration of posterity. Who are not friends, who are not enthusiasts, when the man, the cause, has triumphed? And as for the artist whose handicraft was thus employed, why should he be less susceptible to the kindness of benefactors than the great masters into whose immortal paintings of Saints and Martyrs, and of the Holy Family itself, were introduced the portraits of their own patron bishops and duchesses?

Against all this false grouping for historical effect, wherever it may be found, this sordid commingling of souls noble and ignoble, this separation of the acknowledged leader from associations which combined to produce his great action, and gave him strength, dignity, and sympathy at the momentous opportunity, I invoke the justice, the scholarship, and the incorruptible honor of the historian. Let him take his impartial stand among bygone men and events, and, so far as in him lies, reproduce the past as it was. Let him extricate reputations from the dust of oblivion and cunning entanglements, and award posthumous honors anew without fear or favor. Let him observe the laws of perspective, and bring foreground and background into their just and harmonious relation. Let him distinguish scrupulously between the recognition which follows success and that rarer sort which precedes it in the day of personal sacrifice. And in order to do all this, let him not trust too closely to epitaphs placed on tombstones of the dead by the immediate survivors, nor to effigies bronze or brazen; for much depends upon the bias and worldly hopes of the men who set them in position. To rescue history from the age most dangerous because most likely to pervert its truth, and yet at the same time the age most plausible in its expression—that age, I mean, which next succeeds the event,—should command one's diligent effort. For every epoch is best read and explained by its own light, by its own contemporaneous record; and every other record ought to be held but secondary and subservient in comparison by the student who searches for the real truth of events. This last observation



may be thought a trite one: but I am well convinced that it is at the very foundation of historical study and criticism, such as a society like ours ought to practise and inculcate.

The concluding paper of the session on Monday morning was by Judge Mellen Chamberlain, librarian of the Boston Public Library, upon "The Constitutional Relations of the American Colonies to the English Government at the Commencement of the American Revolution." The revised text follows:

### **Judge Chamberlain's Paper.**

No thoughtful reader closes a volume of American history, or perhaps of any history, without the conviction that the author's conclusions drawn from the included facts depend very much upon his point of view, as well as upon the forum to which he refers them for adjudication; and that in estimating the value of his work we must likewise take into account his nationality, political and ecclesiastical associations, constitution of mind, and temperament, as influences which, unconsciously it may be, have affected his judgment.

There is high authority for something like this. In the preface to Chalmers' "Introduction to the History of the Revolt of the Colonies," Jared Sparks, to whom that preface is attributed, says "the author was a lawyer, and he has discussed the subject before him in the spirit of his profession, adhering to legal interpretations and distinctions. It is possible that any American lawyer, taking the same premises, would come to the same conclusions; and it may be admitted that the premises are correct since they are drawn from state papers and legal records of the highest authority. The error lies in the mode of viewing the subject."

I quote this passage for the immunity it affords one who wishes to present some old subjects from a new point of view; and because nowhere else in Sparks' writings have I noticed a better illustration of two of his eminent qualities as an historian,—perfect candor and critical sagacity.<sup>1</sup>

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<sup>1</sup> Sparks was a careful investigator, as any one finds who enters fields which he has reaped with expectation of profitable gleanings; but if to learn his

Between the peace of 1763 and the Declaration of Independence the political relations of the American colonies to

methods and to catch his spirit, no time so spent ought to be regarded as time lost.

An American in every fibre of his constitution, Sparks believed in the justice of the Revolutionary cause, and was loyal to the memory of those whose lives he wrote; but he never exalted his heroes by belittling their associates, or by maligning their opponents.

He placed the American cause in the most favorable light, and did not indulge in that urbane condescension towards opponents which sometimes marks the meritorious work of Lord Mahon, and he never imperilled his case as Lecky, an abler writer than Lord Mahon, sometimes has done by inattention to facts essential to its support.

Nor, on the other hand, did Sparks conceal ugly facts,<sup>1</sup> or change their import by artful and disingenuous arrangement of them. He arrayed all the forces, friendly or hostile, although, as it sometimes happened, his flank was turned, or his front disordered by mutinous auxiliaries which he had brought into the field.<sup>2</sup>

History was regarded by Sparks, as it ought to be by every one, as the record of impartial judgment concerning the motives and conduct of men, of parties, and of nations, set forth in their best light; and he was incapable of attempting to pervert that judgment by doubtful testimony, or by unscrupulous advocacy, which represents one party as altogether wise and patriotic, and the other as altogether unwise and malignant,—an attempt which must ultimately fail since it finds no support in the nature of man, in intelligent observation, or in common sense. He had a healthy contempt for demagogues,—historical demagogues in particular—as corruptors of youth.

<sup>1</sup> Lord Mahon charged him with doing so, but I think Sparks' vindication of his *integrity* is complete. The strongest case against him is that of suppressing Washington's reiteration of an opinion unfavorable to New England. There is no doubt that Washington entertained such an opinion. That constitutes an historical fact: but if he has recorded that opinion in a letter to Brown, does it make it any more a fact that he has also recorded it in letters to Jones and Robinson? Sparks gives the first record, but to save space omits the paragraphs in which similar opinions are given in letters to two other correspondents. That, I think, states the case fairly. It may be said that Sparks should have given all such passages, or indicated their omission by stars or otherwise. Why those opinions more than others? To have given a resumé of all omitted passages would have swelled his volumes unduly. If proper editing would require such notice of repetitious passages, why not, on the same grounds, the omission of all repetitious or unimportant letters? It may be admitted, however, that Sparks' editorial rules are not those now in vogue; but in fairness it ought not to be forgotten that in dealing with such a mass as the Washington papers, Sparks was confronted with a new and very difficult problem.

<sup>2</sup> An instance is found in Sparks' "Franklin" (IV., 450), where he seems to justify the use made of Hutchinson's *private letters*, on the ground that Hutchinson had secretly used Franklin's in the same way; but from Hutchinson's letter to the Earl of Dartmouth, which Sparks prints, it is evident that Franklin's letter, instead of being private, was his official letter, as agent, to the Speaker of the House, and therefore public property; and, as may be conjectured, Hutchinson sent it to the Earl of Dartmouth unofficially lest, upon a "call for papers," it should find its way to the House of Commons, and thence, as had Bernard's and Gage's letters, back to Boston.

the Crown, and to Parliament, and the degree of their subordination to imperial authority, were questions of practical import, which gave rise to discussions sometimes profound and always earnest; but after the 19th of April, 1775, the clamor which they had occasioned was, for a time, silenced by the greater din of arms. During the period of constitution-making which ensued, they were often referred to in the debates of the Convention of 1787, and in the pages of the *Federalist*; but not long after they, with other causes of the Revolution, were relegated to the closet of the historian.

*The Questions of the Revolution not New.*

My purpose in this paper is to suggest that the questions rife at that stage of the Revolution were not new questions—only newly important;—that they were coeval with the first political organizations in the British-American colonies, and had vexed them at every stage of their development down to the Revolution; and, instead of being settled by that event, that they are still vital—and are not unlikely once more to become absorbing questions, as more than once in the meantime they have been. Their settlement on a just basis depends, as Dr. Sparks seems to think, upon the selection of the right point of view. And since discordant opinions have arisen in respect to the same facts and circumstances when submitted to similar apprehensive intelligences, history should serve as a lens which gathers up all the rays colored by passion, prejudice, interest, or unwarranted judgments, and recomposes them into the white light of truth.<sup>1</sup>

*Of the Competent Tribunal.*

If the controversy, at the time of the Revolution, respected the political relations of the colonies to Great Britain, and

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<sup>1</sup> The following paper was prepared with no view to its publication, but merely to be read before the Historical Association. Nor is it the result of any exhaustive study of the precise questions of which it treats; and the writer, although he believes in the essential validity of the historical propositions which it undertakes to set forth, desires, nevertheless, that they should be regarded as theses for discussion rather than as his final judgments.

the degree of subordination due from remote dependencies to some central authority, what tribunal had jurisdiction of such questions, and by what principles were they to be determined? Were they determinable solely, as the Tories in both countries claimed, by the British constitution? or, as the Whigs finally claimed, had the colonial constitutions acquired that degree of consistency, and the people living under them such numbers and weight in the empire, as warranted them in determining their inter-state relations in accordance with these constitutions? Or if we say, as there is some reason for saying, that the real difficulty was practical rather than political, and related principally to the degree in which the interests of agricultural states ought to be subsidiary to the mercantile policy of British merchants; then perhaps an appeal would lie to the economic system which Adam Smith was just bringing into prominence, with promise of free trade to the colonies, agreeably to the policy since adopted by the British government. Or, finally, was the question one concerning the rights of man, as Jefferson claimed; and in that case, what rights: those which are natural, positive, and inalienable, or such as are qualified by public law, constitutions, and municipal organizations? On the question in this form the opinions of authoritative writers on government would be entitled to great weight. Clearly much depends upon the forum, as well as upon the point of view. Sparks suggested the error of Chalmers, which was also that of the king and his ministers, and of Parliament, and of the Tories on both sides of the water. Their facts might be well authenticated, and their logic valid, but they looked at the subjects in controversy "from the wrong point of view," unless we agree with Goldwin Smith, who, it is reported, regards the Revolution as a calamity to both parties, by which America was deprived of her history, and a great schism was caused in the Anglo-Saxon race.

#### *The Patriotic Party.*

The Whigs conducted the controversy with infinite tact, changing ground as the exigencies of their situation required.

At first, as a party, they argued the question as one arising under the British constitution; and finally, as Jefferson declared, by their inalienable rights as men.

At no time before or since the period between 1763 and 1776 has the Anglo-American shown greater intellectual activity, or a firmer grasp of political philosophy, or more aptness in adapting it to practical politics. Sprung from the parent stock at the time of its greatest vigor, and of its most splendid achievement, as if by natural selection for his work in the New World, he was less endued with the spirit which sought expression in the imaginative literature of the great dramatists, than with those principles meditated by Sir John Eliot in his lonely cell, and for which Hampden died on the field,—principles which moulded the constitution so that it restrained the power of the crown, enlarged that of the people, and gave free play to that genius which made Great Britain, after Rome, the greatest power for civilization the world has ever known. Of such origin and with such associations the men of the Revolution, adopting the conclusions of Sidney, Harrington, and Locke,—the principles of nature and eternal reason, as John Adams called them—applied them to public affairs in a body of political literature unsurpassed in amount or quality by any thing which preceded, or which has followed. Had their writings been of the closet merely, such encomium would be extravagant; but what justifies it is, that profound speculations on the nature and purpose of government were united with a practical sagacity which adapted means to ends and secured the result desired.

#### *What the War Settled.*

This period of discussion was followed by seven years of war, in which, by a series of victories, some of which were military and others only moral, they made good the declaration that "these united colonies are, and of right ought to be, free and independent states." The war settled *that*, if it settled nothing more. Then followed the Confederation. The states were jealous of their rights and some of them insisted on monopolizing for their own use advantages

which the Confederacy should have shared. The government fell into decrepitude, and the people narrowly escaped anarchy. In due time the colonies, by their representatives, met in Philadelphia and formed a general constitution. Presumably the result of their labors would embody the principles they had adopted in their controversy with Great Britain, at least as modified by the vicissitudes of war, and by their application to practical affairs. But how far this was the case will appear if we examine the questions one by one. Things do not change by changing their name.

*Some Things which it did not Settle.*

If the quarrel between Great Britain and her colonies was respecting the king's prerogatives, and the colonial contention was that such large and varied powers could not wisely, nor consistently with the spirit of the constitution since 1688, be entrusted to a single person however exalted, or wise, or well-disposed, they did not long continue of that opinion; for in forming the constitution of the United States they clothed their president with prerogatives such as no British sovereign since the English Revolution had exercised.

Was it in regard to the right of Parliament to enact commercial laws which injuriously affected the colonies whose chief interest was agricultural? Our tonnage act, passed in the first session of Congress, was similar in principle and design to the acts of Charles II., and, with some modifications, is still in force, and has operated, and now operates, unfavorably to the agricultural States of the seaboard which stand in similar relations to the commercial and manufacturing States of the North as the colonies stood to Great Britain; nor need I say that our trade laws produced similar disquiet, and at one time threatened serious consequences.

Or was it a question of taxation by a body in which they neither had, nor could have, adequate representation? That has been the complaint in our territories and sparsely populated States, as it was in the days of the stamp act; and

though not yet loud or serious, it may become so, and with the difference, that instead of being a hardship feared, it will be a hardship felt.

If the appointment and pay of the judiciary without efficient control of it by the people, or their assemblies, caused rational discontent, the grievance remains under the new government as it was under the old, and is aggravated by the adoption of the English system of Equity, Prize, and Admiralty jurisdiction to an extent unknown to the colonies.

Finally, was it the theoretical question of the universal, inalienable rights of man to life, liberty, and the pursuit of happiness? After how many years, and at what cost of life and treasure, was the Great Declaration made good!

#### *The Failure to Settle these Questions.*

No one who reads the debates of the Convention of 1787 can fail to notice that the friends and the opponents of the proposed Constitution divided on questions involving the same principles as those which divided the Revolutionary parties; nor can one read the Constitution itself without perceiving that its acceptance by the Convention was a triumph of the legitimate successors of the Anti-Revolutionary party of 1775. "It was not even proposed," says Hildreth (*Hist. U. S.*, I., 118), "to curtail the appointing power, the veto, or the extensive authority vested generally in the President, nor seriously to limit the powers of Congress, or the jurisdiction of the Federal Courts." The Constitution failed to receive the signatures of some of the ablest members of the Convention; and "it was exceedingly doubtful whether, upon a fair canvass, a majority of the people, even in the ratifying States, were in favor of it." (Hildreth, *ibid.*, 28). So dissatisfied were the people, not only with the Constitution, but also, and even more, with what was omitted, that its adoption was accompanied by numerous proposed amendments; only two, however, of those relating to matters mooted at the Revolution became parts of the Constitution—those prohibiting the quartering of troops in private houses, and the issue of general war-

rants. And so far were the Revolutionary questions from being settled in accordance with the results of that event, it has been said that from 1789 to 1860 they caused nearly as much dissatisfaction with the general government, in the States south of the Potomac, as the policy of the British government caused in the colonies between 1763 and 1775; and that evidence of this is found in the Virginia and Kentucky resolutions<sup>1</sup>; in the assault on the judiciary in Jefferson's administration; and in the dissatisfaction of South Carolina with the tariff in 1832, to say nothing of the extent to which they entered into the conflict which led to civil war.

The war, then, did not settle these questions; it merely disposed of them under a new order of things, and left their settlement to us, or to those who may come after us; and it may be that the late civil war merely placed them in abeyance for the second time, and that nothing but their final settlement on just economic grounds will cause them to disappear from American politics.

I therefore regard the period between 1763 and 1776 as one of the most significant in our history; for the questions then rife reach back and are inextricably interwoven with the history of each colony from its first planting; and reaching forward also, how fully they have entered into our later history is known to every intelligent reader.

### *The Character of our History.*

A clear understanding of the constitutional questions which perplexed the colonists of the Revolution depends

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<sup>1</sup> These resolutions expressed the sentiments of the Republicans, who claimed to represent the States-rights party, or the old revolutionary party of Jefferson, Samuel Adams, and George Clinton, as opposed to the Federalists, who were charged with entertaining the monarchical principles of the old Tories; and by the forced construction of the Constitution, with having perverted the government, and administered it on principles adverse to those of the Declaration of Independence. The tendency of the general government from the beginning undoubtedly has been towards consolidation; and if the results of the late civil war may be regarded as an expression of the final judgment of the people as to the constitutional questions involved, it is an interesting commentary on those mooted between 1763 and 1776—though in no respect affecting the main question of independence.



somewhat upon a knowledge of their antecedent history. American history before the Revolution is neither romantic, nor picturesque, nor, as a whole, is it striking. It is barren of incidents; lacks great characters; contributes little or nothing to statesmanship, war, or policy; and still less, if less be possible, to literature or art. The glory of Wolfe is not our glory. The foot of no colonial soldier climbed the steeps or trod the heights behind Quebec; and none but the veteran troops of England heard the triumphant cry: "They run!" or caught the hero's parting words: "I die content." And if we have nothing to show save the results of conflicts with miserable Indian tribes, or the not very creditable military and naval expeditions against the Canadians, a foe vastly inferior in number and resources; or of civil history save the Antinomian controversy, or the hanging of a few Quakers, and of a more considerable number of witches—or those accounted such,—acts which had no essential relation to the soil or climate of the country, and in no respect differentiated its people or their history from those of any other people, I think we might close the volume without loss of instruction or delight.

But, on the other hand, our history is unique in its origin, isolated in its progress, and is the best exponent of the new order inaugurated by the revival of learning and the Reformation, because it rests upon a broader human basis and clearer recognition of individual rights. More than any other history it gives promise to the hopes of man, and records development under exemplary constitutional forms and methods which other nations appear to regard with interest.

The history of America, unlike that of most nations, is not shrouded in the mists of mythology, nor in the darkness of barbaric ages. From the beginning it stands, for the most part, in the clear light of authentic facts. It traces its origin, as no other nation can, from public documents, such as land patents, incorporative charters, proprietary grants, or royal commissions, in the interpretation and construction of which, with the included facts, may be found all, or nearly all, that

is of value. In these documents the beginning of our essential history is to be sought, rather than in the forests of Germany, or in the fens of Lincolnshire; and with them and the records of the Board of Trade, royal instructions, assembly journals, and Chalmers' Colonial opinions, and with little other aid, any one of historical insight and general culture, observant of the logic of events, and well acquainted with men, their motives and modes of bringing to pass their purposes,—not necessarily a jurist, but like Hutchinson, Ramsay, Trumbull, and Belknap, with clear conceptions of organic and municipal law,—could write the history of the thirteen colonies in his closet.

Another characteristic circumstance of our history is its isolation. Before the war of 1755 it had, so far as I can perceive, no essential dependence upon European affairs—not even those of England; certainly none which changed the direction or rate of progress which the people were making under influences purely American. This is not the view taken by the historian of the United States, or by the historian of New England; and I am aware how much their histories gain in interest by being projected on a background in which we see the movements of armies, and the pageantry of kings and courts.<sup>1</sup>

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<sup>1</sup> Without doubt, the colonies were a factor in European politics; but how far the converse is true is not so clear. The essential history of the colonies is that of their development; and the historian may disregard, or pass lightly over, whatever did not materially affect that development. Perhaps the French war of 1756, which resulted in the overthrow of the French power in America, presents the strongest case of a colonial war growing out of European complications; and yet, with regard even to this war, it is a question how far it affected the development of the colonies—that is, in consequence of that war, and its result, how was their subsequent history different from what it would have been had it never taken place, or had the result been different? The answer must be uncertain, yet there are facts which lead to the conjecture that the result made, or had it been different would have made, no essential difference.

Wolfe's success at Quebec is often spoken of as having changed the history of the French and English colonies. It was indeed a splendid achievement of British arms; but Creasy wisely counted the battle of Saratoga, not that at Quebec, among the "Fifteen Decisive Battles of the World."

Nor was the immediate effect upon Canada itself very great. Eleven years

Original tendencies of the race, and acquired habits and impulses were transmitted in both of its branches, and doubtless influenced the emigrants in their new home under unwonted circumstances; but the colonists were far from the complications of European politics, and when histories so dissimilar are treated in relation, and with due regard to historical perspective, American history loses its distinctive characteristics and much of its value. I prefer, therefore, to regard it, as I believe it to be, as the history of Englishmen more or less imbued with the principles of the Reformation and of the Petition of Right, who cut themselves loose from Europe, with its old institutions and associations, and without pattern, or assistance, or very effective interference—though that was often threatened—undertook on bare creation, to develop thirteen autonomous States out of as many land companies. No doubt when America was discovered

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later, the Quebec Act of 1774 was a politic, if not a necessary, recognition of the *status quo*; and it is worth considering how far, even to this day, those circumstances and conditions which accelerate or retard the prosperity of a people were changed by the war. (See an instructive paper, by John George Bourinot, L.L. D., of Ottawa, in the *Scotch Review* for April, 1887.)

It may be conceded that the reduction of Canada precipitated the American Revolution. It is not claimed, I think, that it caused that event. How, and to what degree, then, did it hasten it? It is usually said that after the peace of 1763 the British colonies, no longer exposed to hostile inroads of the French and Indian allies, were better able to resist the unpropitious legislation of Great Britain.

This aspect of the case was fully discussed by English and colonial statesmen, among whom was Franklin; and the English negotiators of the treaty of 1763 were in doubt whether they ought to retain Canada as one of the results of the war, or give it up for Guadeloupe; and it would seem that they made a great political mistake in their decision unless we overestimate the effect of the reduction of Canada upon our subsequent history.

Let us suppose that the French had retained Canada. Would that fact have wiped out the enormous debt incurred by its conquest, or have prevented its increase for the defence of the colonies; or would the colonies, thwarted in their wishes, have become enamoured of stamp acts, navigation laws, or Townshend's revenue measures?

Nor did Wolfe's victory precipitate, or make more exigent than his defeat would have done, any of those questions which had been open for more than a hundred years, and finally brought on the war. The debt, as has been said, remained to be paid; nor could it be paid, or even remain stationary, except

she parted company with the undetermined ages in their sluggish movement and cast off into the rapid stream of historic time; but she was far from the centre of the current, and in a new world soon formed one for herself.

Such, as it appears to me, has been the isolation and direct development of the independent governments of America from colonial charters, or their equivalents. It was self-development,—in New England primarily on the basis of ecclesiastical independency closely interwoven with economic independency, which, out of New England, was the leading motive; and its history gains in interest and value as it reaches that point when acts of incorporation and royal commissions ceased to be such, and became potentially the basis of governments proper agreeably to the laws of growth, usage, and necessity in a land remote from the old world, and having little connection with it.<sup>1</sup>

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by subjecting the colonies to an imperial policy, involving the adoption of essentially the same measures as those which led to rebellion.

Why, under such circumstances, would they have been less willing to seek relief in independence, or the French less willing to incite them to rebellion, on occasion; and when the colonists were brought to the contemplation of that, as in time they must have been, could they have been blind to the consideration how much more effective French assistance would be (than it really was under other circumstances) when that power held the St. Lawrence and the northern approaches to Lake Champlain?—which would have eliminated the northern campaigns of 1775-6 and 1777, to say nothing of Sullivan's expedition of 1778, from the war, and permitted the concentration of colonial energies and resources in the middle and southern colonies?

The real contest between England and France in which the colonies, as a whole, were interested, was for the Ohio and the Mississippi, not the St. Lawrence; and had the attack on the left flank of the French at Quebec failed, it would by no means have prevented, or more than temporarily delayed, one on the French centre, from a base of the Atlantic, protected by the naval power of England. A war for the great watercourses, and the fertile lands on their banks, would have followed, and with the result usual in the contests for empire between England and France. The French centre, once broken, New Orleans and Quebec would have been untenable.

<sup>1</sup> A signal interference by the home government with the colonies was the revocation of the Massachusetts charter in 1684, followed by the Dudley-Andros interregnum, and that by the second charter; but the affair, neither in detail nor in mass, deflected the history of that colony by a hair's breadth from the old line of *development*; and we look in vain for the scar of the wound which Charles II. in his anger inflicted on the body politic.

*Some Constitutional Questions Examined.*

With this conception of the origin and historical and political significance of the questions which were rife between 1763 and 1776, I pass to their relation to the American Revolution.

Jefferson, in his declaration to the world of the causes which justified the assertion of colonial independence, has given singular prominence to the exercise of the king's prerogatives; and his arraignment of him at the bar of public opinion seems like a personal assault. Jefferson knew, as no one knew better, that some of the real causes which warranted the Declaration, such as the navigation acts, and the ecclesiastical laws in Virginia, had existed a hundred years before George III. began to reign; and that for the later revenue measures he had only a divided responsibility, such as arose from his assent to parliamentary acts the veto of which might have cost him dear.<sup>1</sup> In Mr. Webster's "Eulogy on Adams and Jefferson" will be found the reasons which probably influenced Jefferson in making the king the chief offender. "The best of kings," as James Otis and Samuel

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<sup>1</sup> As to the king's constitutional responsibility nothing need be said, for he, like the sovereign people, can do no wrong; but with this difference, that if he *does*, he can be decapitated: with the other, it is not so! As to his moral responsibility for acts done in his name, it should be considered that his connection with them was often merely nominal. An appeal from the decision of a colonial court to the king in his bench was an appeal to the judges of the highest English court. And so an appeal to the king in his council was an appeal to the ministry. We read that the king settled the boundaries between provinces, or vetoed their laws, or gave instructions to governors, or issued his royal commission; but so far were these acts from being the personal acts of the king, the probability is that he knew little about them, except as he was informed by the secretary for the colonies of what had been settled by the ministers; and that both he and they, in these cases, acted on the advice of the great law officers, and followed precedents from which neither could safely depart.

The impersonal nature of the prerogative is shown by the fact that though the government of New Hampshire, between 1679 and 1774, with a short interregnum, was based on the king's commission, apparently the written evidence of his personal will, and revocable at his pleasure, yet I doubt if any instance can be found where, on account of royal dissatisfaction—which means the dissatisfaction of the ministry—the tenor of his commission was changed. Though theoretically otherwise, it was as permanent as a royal charter.

Adams somewhat profusely, and perhaps not with entire sincerity, were in the habit of calling him, was in no respect the worst of kings; and when free from the cruel malady which made hapless his later years, he was tyrannical neither in his political, nor in his personal conduct<sup>1</sup>; nor was he without solicitous regard for the welfare of his American subjects. It was his paramount purpose, as it was Jackson's and Lincoln's under circumstances not dissimilar, to preserve the integrity of his empire; and in this he exhibited two qualities—courage and decision—which stood for so much with the most popular president of the United States when, in 1832, their unity was threatened by a dissatisfied State.

Though Jefferson regarded with disfavor those who exercised autocratic powers—especially if hereditary—until he came to exercise them himself, he probably had no personal animosity towards the king, but spoke harshly of him as he did, and regardless of facts, from political necessity. *The act which he undertook to justify before the world was renunciation of allegiance to the king to whom, if to any one, it was due,—not to the ministry, nor to Parliament, nor to the British people.*<sup>2</sup> Therefore he sought something in his conduct which would warrant the rupture of the empire. None of

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<sup>1</sup> So thought John Adams. See his "Letter to Timothy Pickering," 1822.

<sup>2</sup> The operative act which severed the colonies from the crown was Lee's resolution of June 7, 1776, passed by Congress July 2d, and is in these words: "*Resolved*, That these United Colonies are, and of right ought to be, free and independent States, that they are absolved from all *allegiance to the British Crown*, and that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved." And as the Declaration was merely an announcement to the world, on the 4th of July, of what had been enacted on the 2d, Jefferson was obliged to follow Lee's resolution. Jefferson, in his "Autobiography" (p. 12), gives a résumé of the opinions of those such as John Adams, Lee, and Wythe, who favored the passage of the Resolution of Independence, to the effect that, "as to the people or Parliament of England, *we had always been independent of them*, their restraints on our trade deriving efficacy from our *acquiescence only*, and not from any rights they possessed of impairing them, and so far, our connection with them had been federal only, and was now dissolved by the commencement of hostilities:

"That, as to the king, we had been bound to him by allegiance, but that this bond was now dissolved," by certain acts more fully set forth by Jefferson in

the real grievances, such as the enforcement of the navigation laws,<sup>1</sup> the revenue measures, or the Boston Port bill, would serve his purpose, because, apart from the constitutional maxim that all the king's public acts were done under the advice of his ministers, who were alone responsible for them, the king, as a matter of fact, instigated none of those measures, and, as the veto power was then regarded, he could not have withheld his assent to them without endangering his crown.

*But every exercise of the prerogative, however far from the fact, ostensibly as well as constitutionally, was the sole act of the king, for which he was responsible.* Therefore Jefferson attacked him in an indictment consisting, as originally drawn, of twenty articles, several of which contained two or more specifications. In nineteen of these he is made sole culprit; and in one, the thirteenth in order, he is associated with the two Houses of Parliament; seven relate to the exercise of the veto power, in one form or another; two, to the appointment, tenure, and pay of the judges; one to the increase of revenue officers, and seven to the abuse of his powers as commander-in-chief of the army and navy.

Had the king been arraigned on these charges before a court of justice, undoubtedly by advice of counsel he would have demurred to the bill, which, I hardly need say, means that admitting the facts to be as set forth, still he ought not

the Declaration of Independence, and also in the preamble to the new constitution of Virginia, which Jefferson had drawn. (Randall's "Jefferson," I., 195.)

The Declaration, as drafted by Jefferson, was no sudden, no novel product. He had been over the whole subject, and was thoroughly master of it, as appears from the draft of instructions which he prepared for the delegates to the Congress of 1774 ("Autobiography," I., 122), which, though not fully accepted, afterwards appeared in "A Summary View of the Rights of British America."

<sup>1</sup> "I think it [the act of navigation], if uncompensated, to be a condition of as rigorous servitude as man can be subject to." "They found, under the construction and execution then used, the act no longer tying but actually strangling them."—Burke's Works, I., 457, 463.

"I judge so from the system of monopoly and exclusion which governs all your political writers upon commerce, except Mr. Adam Smith and Dean Tucker—a system which is the true prime cause of your separation from your colonies."—Turgot to Dr. Price, 1778.

to answer, since the acts complained of were done in the exercise of his constitutional prerogatives.

The charge, for example, that "he has refused his assent to laws the most wholesome and necessary for the public good," is, on constitutional grounds, without support; for it was not only his prerogative right so to refuse, but it was a right expressly reserved, with two or three exceptions, in the very instruments to which the colonies owed their existence, and which they had assented to by accepting them. Jefferson would not have helped his case, as matter of law, by insisting that it was the abuse, not the exercise, of the powers of which he complained; for of that the king was sole judge.

Looking at the case, therefore, from the constitutional point of view, as Chalmers and the Tories looked at it, judgment must have been for the king. That is, by the British constitution the king stood on the same ground as the president of the United States, the governors of most of the states, and the mayors of many cities stand on when they veto legislative acts; and no more than they are, was the king justly liable to impeachment therefor.

By fiction of the British constitution the king sat in person in his colonial courts, as well as in those within the realm; and when he required substitutes, as well he might, to perform this ubiquitous and exacting service, he claimed the right accorded by the constitution, to say by whom, and on what tenure and with what pay these vicarious services should be rendered. The pay of the judges by the king was the feature most obnoxious to the colonists. They cared less who was judge, or how long he held the office, so long as they could bring him to terms, as they often did, or even drive him from the bench, by diminishing or withholding his salary. The result was, that when the king sued in his own courts for his revenues, or for trespasses on the timber land of the crown, he was generally cast in his suit. This question the Revolution temporarily adjusted without settling. It was left to us, and we are in doubt; for there are intelligent people who take the revolutionary ground, as opposed to the Tory ground of that period which we have generally



adopted, that the judiciary, not less than other departments of the government, ought to depend upon the popular voice for their election, pay, and tenure of office.

The king, like the president of the United States, by his prerogative was commander-in chief of the military and naval forces of his empire, and in peace, as well as in war, determined their movements, posts, and quarters; and regarded as a constitutional question, Jefferson's complaint on this head amounts to no more than this: that George III., though he probably had little to do with it, directed the forces in the colonies for purposes and in a manner which was not approved of by the colonists. But that is seldom the case with those whom the government undertakes to reduce to subjection. Certainly it was not so in the late civil war, in which both combatants made loud, and doubtless just complaints, against each other of inhumanity and disregard of the laws of war; and Congress, and the press, and many very wise people, were more willing to take command of the army than to allow the constitutional authorities the exercise of that function.

Tory writers both at home and abroad sneered at Jefferson's constitutional notions. Not that Jefferson did not know the constitution; few knew it better. His difficulty was, that in armed rebellion he was obliged to fight the battle before the world, not as a rebel, but as one contending for the rights of the colonists under the constitution, which, as he claimed, had been invaded by the sovereign. On that ground his task was severe—perhaps beyond his strength.

### *The Real Position of the Colonies.*

If his situation had allowed, Jefferson doubtless would have said, what certainly was true, that the king, by advice of his ministers, and by virtue of his prerogatives, and as a co-ordinate branch of the legislature, had exercised his constitutional powers adversely to the economic interests of his colonial subjects; and that they, having petitioned and remonstrated without redress, were compelled to sever those relations which formed the basis of their allegiance to him

and of his power over the colonies. But that was revolution!

This was the real position of the colonists, and in it was the justice and strength of their cause; and we may speculate whether they might not have better taken it at the outset, since to that position have gradually come the wise and dispassionate thinkers of both countries in the present generation.

They followed English precedents, however, in the course they adopted; for I believe the opinion is gaining ground, adversely to Hallam and some other English constitutionalists, that in many, perhaps most, cases, and notably in the case of ship-money, Charles I. was within his strict constitutional prerogatives. (Hall's "Customs of England," I., 141, 145.) Nevertheless, the people rebelled and slew him as a tyrant who claimed and exercised unconstitutional powers, when his real offence was the exercise of constitutional powers without any warranting necessity.<sup>1</sup>

Jefferson was right in his main purpose; but his indictment of George III. is perhaps the only one ever drawn in which the real offence is not even mentioned, and where an innocent party was vicariously substituted for the real offender<sup>1</sup>

### *Unsatisfactory Results of the Controversy.*

Nevertheless, Jefferson's arraignment of the prerogatives in the person of the king did little or nothing for their settlement, since they remain, even with augmented force, under the new order as under the old. Prerogatives, in a monarchy, are the divine rights of the sovereign king; under a democracy, the divine rights of the sovereign people. This

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<sup>1</sup> Where great principles, or even great interests are at stake, constitutional guaranties or restrictions are of little avail. How little, some of us know, who had no doubt in respect to the guaranties of chattel slavery, but, nevertheless, deliberately disregarded them, and gloried in doing so; and many attested their sincerity by the sacrifice of their lives. And so, as we look at it, and as I think, the world, including Great Britain, now looks at it, Jefferson was right in his main purpose; and if, on strictly constitutional grounds, he was wrong, like Cæsar, "he was wrong in just cause."

is the theory. Practically, under both forms of government, they are grants of power by the people to their rulers; and if the king's prerogatives were justly obnoxious to the colonists, why did they, not many years after, invest the president with power to appoint cabinet officers, foreign ambassadors, judges, and the whole civil and military service for a people since become sixty millions? This is one of the questions which the Revolution did not settle, and it has been re-opened, again and again, with a persistency which causes solicitude in some quarters as to the result, especially in respect to the judiciary.

Jefferson smote the claim of parliamentary supremacy squarely in the face. He denied that Parliament had any rightful authority over the colonies; and asserted that the exercise of such jurisdiction was foreign to our constitution, unacknowledged by our laws, and that all its acts were usurpations. This opinion he had expressed before the Revolution, and Wythe agreed with him; but as he said, he could find no one else who did. No wonder: for the facts were against them. In several instances, and on various subjects Parliament had legislated for the colonies with their assent, and even at their request. If Jefferson accepted the original doctrine that the colonies were the king's colonies, subject to his direction, to the exclusion of all other, his position is intelligible. Franklin had expressed similar opinions; but both regarded monarchical power when opposed to popular rights with aversion, and it is difficult to resist the conviction that their utterances were merely political.

Jefferson's theory of the relations of the colonists to the crown was as old as the colonies themselves, and grew out of the public law of Europe in the fifteenth century; and by that theory the king made laws for them, if royal provinces, by the terms of his commissions to their governors; and he regulated all of them by the exercise of his prerogatives. Nevertheless, from an early period the prerogatives had been invaded by Parliament, so that at the time of the Revolution they were in such doubt that statesmen might well differ as to the rights of Parliament to tax the colonies. They

claimed exemption by arguments to which Chatham and Camden gave assent, and sometimes for reasons which illustrated the self-complacency of the true Briton and all of his descendants, especially in Massachusetts.<sup>1</sup>

*The British and Tory Point of View.*

The dispute was mainly one of point of view. If the colonists were without the realm, and merely the king's subjects, as was their relation by constitutional theory at least, parliamentary legislation affecting them was usurpation; but if they were within the empire, which was questioned argumentatively by the colonists, though that was the opinion in England, and if they were entitled to the privileges of the British constitution, and subject to its burdens with all the exceptions to its general provisions and frequent departures from its principles, then the rights and duties of the colonists, as of those within the four seas, were determined by prece-

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<sup>1</sup> That people, says Mauduit (Hutchinson's "Letters," 59, 2d ed., 1774), pleaded the charter of 1691, in which it was provided that they "should have and enjoy all liberties and immunities of free and natural subjects, within any of the king's dominions, his heirs, and successors, to all intents, constructions, and purposes whatsoever, as if they and every of them were born within his realm of England." The English subjects within the realm, they said, "have a right to choose representatives for themselves, and are governed only by acts of Parliament: under our charter, therefore, we have the same rights as the people of England have to choose our representatives, and to be governed only by the laws made by our assemblies in which alone we are represented; and the Parliament of England has nothing to do with us." This is ingenious. It is also very English and very American. Both peoples seem to think that there are certain rights which Englishmen and their descendants, as such, distinguished from Frenchmen, Spaniards or Dutchmen, for example, carry with them into all parts of the world, to be pleaded there against local jurisdiction. "I am a Roman citizen," exclaimed Paul in a country remote from Rome, but subject to its laws. "I am an Englishman," exclaims one who travels in foreign parts where English law does *not* prevail, and expects his claim to be allowed. The real meaning of the charter was, that any citizen of Massachusetts going to England or Jamaica, or to any other of the king's dominions, should have the same rights as though he were born in England; but it did not mean that in Massachusetts or Jamaica, he should have the rights, general or local, which he might have and enjoy in England. Such has been the interpretation given to a provision in the fourth article of the Articles of Confederation similar to that in the Massachusetts charter.

time nearly in range, and we were ready to open fire. I did not fancy this taking charge at the last minute, but there was no help for it, so I put the men in the boats with their arms and left the *Beaufort* with the pilot, engineer and two men on board. (Parker also took all of the *Beaufort*'s ammunition.) I directed the pilot to slip the chain and escape through the canal to Norfolk if possible, otherwise to blow the steamer up rather than be captured. He "cut out," as Davy Crockett says, accordingly.<sup>34</sup>

When Parker and the men from the *Beaufort* reached the battery, they found only the army engineer standing by the guns. The militiamen had indeed all fled. Ramming the charges down the smoothbores, the 32-pounders, one by one, roared to life. With no time to organize themselves, and finding the pieces difficult to train, the resultant shots were wild and missed their targets. By now the guns of the Mosquito Fleet had also opened fire, and the Federals, who were still plowing upriver at full speed, returned the fire. Four Union vessels in line abreast led the charge, the river being too narrow for the others who followed behind. Confederate fire from the gunboats, while it lasted, was thick and sometimes deadly, several hits being made, causing numerous Federal casualties. The report of the thundering guns reverberated in the still morning air, while smoke and flames covered the river making visibility difficult. Shells whizzed through the air, crisscrossing one another as they sped toward their intended targets. Lynch's gig had been cut in half by a shell and he was stranded at the guns with Parker. The Confederate commander stood on the parapet of the Cobb's Point battery and watched with dismay as the Federal warships sped past, paying no attention to Parker's hammering fire. Lynch watched in helpless disbelief as the Union boats headed straight for his Mosquito Fleet.<sup>35</sup>

The Union vessels never slackened their pace, and with engines belching fire and smoke, they stood directly for the Confederate squadron. Southern gunners fired their last remaining charges and began abandoning their boats in the face of such overwhelming forces. Harris set fire to the *Black Warrior* and ordered his crew to escape to shore. Amid a scattering of musket and pistol fire, a Federal vessel slammed hard into the side of the *Seabird*. Union sailors tumbled aboard, and 42 Confederates were made to surrender as the *Seabird* began to sink. The *Ellis* was boarded, and with most of his crew escaping over the side, Lieutenant Cooke stood bravely with cutlass and pistol in hand and refused to surrender. He was finally knocked down and subdued after being severely wounded. Midshipman William C. Jackson had leaped overboard and was swimming toward shore when a pistol ball caught him in the back. Taken on board a Federal steamer, he was well cared for, but the seventeen-year-old officer died at 10:00 p.m. that evening.

*The Whig Point of View.*

Nevertheless, this is the British view. There was also an American view which the Whigs had a clear right to take, as they did when they questioned whether the British construction, with the Declarative Act of 1766, had been acquiesced in by the colonists so as to give to it the force of constitutional law binding on them in their relations to the mother country.

*John Adams's View.*

There is also an entirely different view which acknowledges the force of precedent and usage, and which seems to me conclusive so far as relates to the right of Parliament directly to tax the colonies. It is that presented in the fourth article of the Declaration of Rights by the Congress of 1774, drawn by John Adams, and claims, in substance, the existence of colonial constitutions, as well as of the British constitution, and that the former as well as the latter, were the results of growth, development, usage, and precedent; and that by these constitutions, the power of Parliament did not extend to direct taxation for revenue,<sup>1</sup> but was limited by the countervailing colonial constitutions, which, in that respect, had become part of the general constitution, to taxes imposed by the navigation laws and some others, to which the colonists had given their implied assent, and from which they had received equivalent commercial protection. But direct taxation was another matter. For a hundred and fifty years the power, if it ever existed, had been in abeyance, and the colonies had been allowed to grow and shape their governments and their policy and manage their affairs without direct contribution to the imperial exchequer even for their own government and defence.

*The Constitutional Questions Remain Unsettled.*

I have said that the war settled none of the constitutional questions for which it was waged; nor did the new constitu-

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<sup>1</sup> In a notable passage in Burke's "Speech on American Taxation" ("Works," I., 492) he distinguishes the constitution of Britain from the constitution of the British empire, conceding to the latter the power of taxing in Parliament as an instrument of empire, and not as a means of supply.

tion itself settle them except by returning to the British construction. This, it is true, was brought about only with great difficulty; for there was a large minority led by such men as George Mason, Elbridge Gerry, and Samuel Adams, who strenuously contended that in adopting the constitution of 1787 the people surrendered every thing, except independence, for which they had fought seven years. If the present constitution is evidence of such surrender it is one more example of the tenacity with which the race clings to the principles and essential forms of government, no matter by what name they are called, to which they have been attached, and with which are associated their progress and their glory, and even their misfortunes.

*The True Position Taken in the Preamble of the Declaration of Independence—The Natural Right of Men to Settle Their Own Form of Government.*

If I have any difficulty in determining the validity of the American position within the constitution, either imperial or colonial, I have none whatever in this: that the navigation laws and acts of trade, taxation without representation, the attempts to force an episcopate on the colonies, and the exercise of the royal prerogatives, were so clearly at variance with the natural and acquired rights of the colonists, that at the time when they chose to assert and rely upon them they were clearly justified in armed resistance; and so were they if the British connection contravened the sentiments of three millions of people as to what constituted the pursuit of happiness. This, however, is not in the light of constitutional law, but is an appeal to the rights of man. Here Jefferson was strong, unassailable—in the preamble, if not in the body of the Declaration. Jefferson is a great character and needs a great stage around which may gather all the races of men to hear what he has to say. He requires no interpreter. For six thousand years the world has been waiting for the words which he so spake that all men heard.

### Committee on American Historical Manuscripts.

Upon the conclusion of the literary exercises, the following motion was made by Professor Moses Coit Tyler, of Cornell University: "That a committee of three be appointed to take into consideration so much of the President's address as relates to the possible assistance of the national government in collecting, preserving, and calendaring American historical manuscripts; this committee to report not later than to-morrow morning." Duly seconded, this motion was put to vote and carried. A committee of three was appointed, consisting of Professor Moses Coit Tyler, Judge Mellen Chamberlain, and General George W. Cullum.

### Invitations Extended to the American Historical Association.

The following written invitations, received for the Association, were communicated by the Secretary to the members before their adjournment Monday morning:

PEABODY MUSEUM OF ARCHÆOLOGY AND ETHNOLOGY, HARVARD UNIVERSITY.

CAMBRIDGE, MASS., May 3, 1887.

*Mr. Justin Winsor, President of the American Historical Association:*

DEAR SIR—It will give me pleasure to have the members of the Association, individually or in a body, visit the Peabody Museum during the day of the meeting of the Association in Cambridge. I may possibly be in Ohio on that day, in which case Mr. Carr will receive the visitors in my place.

Very truly yours,

F. W. PUTNAM, *Curator.*

PLYMOUTH, May 10, 1887.

*Hon. Mr. Justin Winsor:*

DEAR SIR—The Committee of the Pilgrim Society, having their Hall in charge, having learned that the American Historical Association, of which you are the President, and the American Economic Association, propose to visit



Plymouth on Wednesday, May 25th, invite them, through you, to visit the Hall on that occasion and accept such courtesies as it may be in the power of the Committee to extend.

We are, with respect, your obedient servants,

WM. J. DAVIS,	} <i>Committee on the Hall.</i>
JAS. D. THURBER,	
ARTHUR LORD,	

BOSTON PUBLIC LIBRARY, TRUSTEES' ROOM.

*May 11, 1888.*

*Justin Winsor, Esq., President of the American Historical Association :*

DEAR SIR—The Trustees of the Boston Public Library will be much gratified to receive at the Library on Boylston Street, the American Historical Association at such time as they may appoint, or, if a special appointment is not practicable, the members are invited to visit the Library at their convenience.

Respectfully yours,

WM. W. GREENOUGH.

*Pres. Trustees Public Library.*

MASSACHUSETTS HISTORICAL SOCIETY, 30 TREMONT STREET,  
BOSTON.

*May 13, 1887.*

DEAR MR. WINSOR:—I wish, through you, as President of the American Historical Association, to invite the members on their coming visit to hold their Annual Meeting in this city, to avail themselves of any privilege or enjoyment they may find in free use of the Halls of the Massachusetts Historical Society.

Sincerely yours,

GEORGE E. ELLIS.

COMMONWEALTH OF MASSACHUSETTS, SECRETARY'S DEPARTMENT, BOSTON.

*May 13, 1887.*

MY DEAR SIR:—Hearing that the American Historical Association is soon to hold a session in Boston, I desire,

through you, to extend a cordial invitation to the members to visit the State Archives at their individual convenience. The Department is open daily from 9 until 5, except on Saturday, when it is closed at 2. I shall take great pleasure in showing whatever we have that is of interest to all who may favor us with a call.

Yours sincerely,

HENRY B. PEIRCE.

Mr. JUSTIN WINSOR,  
*President A. H. A.*

BOSTON, MASS., May 14, 1887.

MY DEAR SIR:—Agreeably to the vote of the Board of Directors of the New England Historic-Genealogical Society passed, this day, at a meeting largely attended, I have the honor, officially to invite the members of the American Historical Association, individually and collectively, as may to them be most convenient, to visit the Society's house, No. 18 Somerset Street, Boston, and to avail themselves of the privileges accorded to the most favored of our visitors, at all times during the sessions of the Association in Boston.

While requesting you to do me the favor to communicate this invitation as extended, I take the liberty to ask, in case the Association should decide to honor our Society with a formal visit as a body, that you will do me the favor to give me as early notice as possible of this determination, in order that I may lay the subject before our Board of Directors, and advise with them as to what may be done to make the visit pleasant and profitable and memorable to both Societies.

Cordially yours,

A. C. GOODELL, Jr.,  
*Pres't N. E. H.-G. Soc'y.*

JUSTIN WINSOR, Esq.,  
*Pres't Am. Hist. Asso.,*  
*Cambridge, Mass.*

BOSTONIAN SOCIETY, MEMORIAL HALLS, OLD STATE HOUSE.

BOSTON, *May 17, 1887.*

*To the President and Officers of the American Historical Association :*

The Bostonian Society cordially extends to members of your Association an invitation to visit the Memorial Halls, in the Old State House, and the other rooms occupied by this Society, during their stay in this city.

The officers of the Bostonian Society will be happy to meet you here, or to afford you any assistance in their power in the work in which you are engaged.

With sentiments of regard and best wishes for the prosperity of your institution, I have the honor to be,

Yours truly,

CURTIS GUILD,

*President Bostonian Society.*

THE SOCIETY FOR THE COLLEGIATE INSTRUCTION OF WOMEN.

CAMBRIDGE, MASS., *May 23, 1887.*

DEAR MR. ADAMS :—Will you kindly say to any member of the Historical Association interested in the education of women, that the building occupied by the Harvard "Annex" is always open, and that gentlemen and ladies will be welcome there to-morrow. The hour from two to three—before the exercises at Sander's Theatre—will be convenient, but they will be welcome at any time. The building is *No. 10 Garden Street*. The "Washington Elm" stands before it.

Yours truly,

ARTHUR GILMAN.

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### Excursion to Wellesley College.

Monday afternoon was devoted by both Associations to a joint excursion by train to Wellesley College, which is charmingly situated in the town of Wellesley, about fifteen miles from Boston, in a large park of over three hundred acres, upon a commanding eminence overlooking Lake Waban.

The visitors came by special invitation, and were graciously received by the lady president and by representatives of the historical department. The guests of the College were entertained in the most courteous and delightful manner. They were conducted through the spacious halls and corridors, where refreshments were served. The art treasures of the Institution, its attractive reception-rooms and well-appointed library interested every beholder. The visitors strolled over the well-kept lawns, where games of lawn tennis were in active progress. Historical specialists sat quietly upon benches along the pleasant shores and contemplated with calm eyes the political economist struggling at the oar upon the tossing waves of Lake Waban.

“ Suave, mari magno turbantibus æquora ventis,  
E terra magnum alterius spectare laborem.”

#### EVENING SESSION.

MONDAY, *May 23, 1887.*

The American Historical Association reassembled in Boston at The Brunswick, and was called to order by Mr. Winsor at 8 P.M. The room was filled by a select and highly appreciative audience. The first and principal paper of the evening was by the Hon. John Jay, of New York, President of the Huguenot Society of America. The revised text is here presented :

**Mr. Jay's Paper : On the Peace Negotiations of 1782-83, as illustrated by the Secret Correspondence of France and England.**

Students of American history and diplomacy may well feel an interest in the fact that they can at last examine for themselves the secret documents from European archives, which explain the peace negotiations that introduced the Republic into the family of nations, as triumphant in diplomacy as in war, and with the boundaries and resources of an imperial power. Hitherto we have had, as regards those negotiations, neither the exactness of detail nor the harmony

of view which generally mark our colonial and revolutionary history, for the reason that the peace negotiations at Paris, partly through our alliance with France and our lesser association with Spain, had become entangled with the policies, jealousies, and finesse of the principal courts of Europe. The exact truth as regards the position towards America of those powers, and especially of France, our efficient ally in the war, touching the claims of the Republic to the boundaries, resources, and conditions essential to its future greatness, however clear were the convictions of Jay and Adams on which their management of the negotiation was based, could only be fully known from the confidential papers of the several players in that game of nations.

The governmental archives of France, which were sure to throw light also upon the policy of Spain, were carefully guarded and almost inaccessible to Americans; and an erroneous report that the correspondence of Vergennes disproved the opinion by which Jay and Adams had been guided in the negotiation, and in which Franklin had been brought to concur, passed without adequate correction into American history. Upon that report, as upon a basis of truth, historians at home and abroad constructed their individual theories of the negotiation. Jay and Adams were assumed to stand convicted of unjust suspicions, and were criticized accordingly. Jay's refusal to treat under the designation of colonies, or as other than an equal and independent nation, was condemned as hazarding for a matter of form the interests of the Republic. His recognition of Rayneval's secret mission to England as a menace to American rights, and his prompt counter-move in sending Vaughan to tell to Shelburne the plain truth, have been denounced directly and by insinuation as acts of folly if not of crime. Franklin, it has been said, "neither criminated France, nor compromised himself, nor his country, nor his colleagues."

The extent to which history may be travestied by a single error in regard to the actual policy of a leading nation in a great international transaction, seemed to culminate in a centennial sketch of the negotiations at Paris in 1782, which

was furnished by an American magazine,<sup>1</sup> illustrated with engravings, to advise the American people, after a hundred years, of the distinct and divergent parts borne by the European powers in that diplomatic contest.

The delay caused by the refusal of the American Commissioners to act under the first commission, which made them masters of the situation and led to their success, was treated as a crime. Adams was accused of having "aided and abetted Jay" in his persistent refusal to accede to the demands of Spain, and the conclusion of the business was given in these words:

"England and France were harmonious in nearly every respect, and finally matters were arranged through the strenuous efforts of Rayneval, the French plenipotentiary (!), and Count Aranda."

A passing allusion to the curious blunders of the past enables us to appreciate the importance of the authentic sources of information which have been happily opened in London and Paris, and which are four in number.

#### I.—*Shelburne's Life.*

"The Life of Lord Shelburne," with a careful sketch of the negotiations, by his grandson, Lord Edmond Fitzmaurice, M.P., who gives a "map of North America showing the boundaries of the United States, Canada, and the Spanish possessions, according to the proposals of the Court of France in 1782." This map confines the United States to a narrow strip along the Atlantic, cut off from the Gulf, the Mississippi, and the Lakes, and bounded on the north by the Ohio. The territory which we would have lost by this scheme, to which the courts of France and Spain hoped to procure the assent of Great Britain, embraced nearly the whole of the States of Alabama and Mississippi, the greater part of Kentucky and Tennessee, and the territory north of the Ohio, including the States of Ohio, Michigan, Indiana, Illinois, Wisconsin, and part of Minnesota, together with the navigation of the Mississippi. "Shelburne's Life," in

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<sup>1</sup> *Frank Leslie's Popular Monthly* for September, 1883.

its very interesting sketch of the negotiation from a British standpoint, gives the first reliable account we have had from an English source, of the mission to Shelburne of Rayneval the secretary of Vergennes, and of his playing into the hands of the British ministers, and the first also of the complete success of the countermission of Vaughan.

The disclosures on this point to which we will presently allude show how the ingenious plans of France and Spain, prosecuted and elaborated for years to dwarf and enfeeble the United States, and subject it to the balance-of-power principle of Europe, were discovered and so thoroughly defeated, that the very effort made through Rayneval to induce England to unite with them against America was used to arouse her pride, to enlighten her better judgment, and to awaken the determination to advance her truest interests both for the present and the future, by securing the friendship of the Americans and giving them every thing that they desired. It is noticeable that while Mr. Charles Francis Adams in the life of his grandfather, and Judge William Jay in the life of his father, conscious as they were of the great interest and importance of Vaughan's mission, seem to have doubted whether the particulars would ever be made known, the publication of the Vergennes papers and especially of Shelburne's Life in the centennial year of the Republic disclosed the truth, and showed the unexampled magnitude of the diplomatic victory then achieved.

## 2.—*The Circourt Documents.*

The next is a volume of unedited documents from the French Archives published by the Count Adolphe de Circourt,<sup>1</sup> a French diplomat who had served under the ministry of the Prince de Polignac till the Revolution of 1830, and again in 1848 under Lamartine, a diplomat to whom a well-deserved tribute was paid as an honorary member of the

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<sup>1</sup> The title of the work is: *Histoire de l'Action commune de la France et de l'Amérique pour l'Indépendance des Etats-Unis*, par George Bancroft, etc. Traduit et annoté par le comte Adolphe de Circourt, etc. Tome troisième. Documents originaux inédits. Paris: F. Vieweg, 1876.

Massachusetts Historical Society by its President, the Hon. Robert C. Winthrop, in 1880. The documents include confidential instructions and correspondence of Vergennes with Gerard and de la Luzerne at Philadelphia from 1778 to 1782, and with Montmorin, the accomplished agent of France at Madrid from 1777 to 1782, disclosing the policy of the French court towards America. This is also developed in extracts from a curious "*Mémoire*" "on the motives and conditions of the Treaty of Peace to be made with England and with our allies." This paper is included with those marked "*Angleterre*," and M. de Circourt says that it is the work of one well informed of the interests of the time in which he lived, and that it reproduces the thoughts of the Comte d'Aranda and the political tendencies of the Comte de Mercy.

### 3.—*The Franklin Papers.*

Other materials of great value are supplied by the Franklin papers at Washington, which are now well known, and of which Dr. Edward Everett Hale and his son have made such excellent use in their recent work, "Franklin in France,"<sup>1</sup> and which are largely quoted by Dr. Francis Wharton in the Appendix to his "Digest of International Law."<sup>2</sup>

### 4.—*The Stevens' Collection on the Peace.*

Next comes, extending far beyond the papers printed by de Circourt, the Stevens' Collection of Manuscripts on the Peace Negotiations from the London and Paris Archives, now temporarily deposited (1887) in the State Department at Washington, where it should remain as a permanent and indispensable addition to the materials for our national history. These papers, if disappointing to those who have regarded Vergennes' assistance to America in the war as a matter of sentiment, are extremely interesting to students of history and diplomacy who would study the policy of that eminent diplomat as an exhibition of statecraft and finesse.

The change in the position of France towards America

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<sup>1</sup> Boston : Roberts Brothers, 1887.

<sup>2</sup> Appendix to vol. III., Washington, 1887.



wrought by the secret treaty of Aranjuez, of which America was kept in ignorance, is shown by the correspondence of Vergennes in which it appears that from the United States "Spain was left free to exact as the price of her friendship a renunciation of every part of the basin of the St. Lawrence and the Lakes, of the navigation of the Mississippi, and of all the land between that river and the Alleghanies."<sup>1</sup> She was extremely averse to American independence, for the reason that she disapproved of encouraging rebels and feared their future power. France had also agreed by that treaty that if she could drive the British from Newfoundland, its fisheries were to be shared only with Spain; and still further, she had agreed to continue the war with Great Britain till Gibraltar should be taken,—a matter in which the Americans had no interest. As the object of the war fixed by the Franco-American alliance was the independence of America, it became the interest of France, under this last agreement with Spain, to postpone the recognition of American independence in order to retain America in the war.

The correspondence of Vergennes after this agreement with Spain manifests an ingenious and persistent attempt to show that his treaty obligations to Americans were not broken by his opposition to their claims, and he sought to induce the Americans themselves to conciliate Spain, by an admission of the Spanish claims and a surrender of their own.

The policy of the eighteenth century has been described as a policy of courts and dynastic interests, and this was especially a characteristic of the house of Bourbon with its family compact. The late Professor Bernard of the High Joint Commission of Washington, in his lectures on diplomacy, remarks that the diplomacy of modern Europe had the reputation of being crafty and unscrupulous in choice of means. He adds that a restless and speculative policy tended to beget a meddling and intriguing diplomacy, that plotting and corruption were wedded to ceremonial and etiquette, and that the diplomats in their vices and follies, their morals and

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<sup>1</sup> Bancroft, X., 191.

manners, reflected those of the courts which they represented and of the world in which they moved, while personal will and character predominated more absolutely than in the most despotic countries of the present day.

The general plan deemed advisable for the treatment of America is skilfully sketched in the *Mémoire* referred to in the French Archives. It shows the care with which the question had been studied with reference to European views and interests, with which the courts of France and Spain were anxious to persuade the Court of London that the interests of Great Britain were identical. America, according to the *Mémoire* in question, was to be independent of Great Britain, for "such was of necessity the will of France, for that was the most fatal blow they could inflict upon her ambitious and troublesome rival"; but the necessity of the greatest moment at the present, was "to regulate the territorial extent which must be given to this power on the vast continent of North America, and what its boundaries should be"; and the excellence of its soil which the war had made known, rendered this essential at once to prevent the evils of emigration. There should be an entire cession of Florida to Spain. Spain must not disturb the domains of England, the new Republic must be confined to its original colonial limits, so that it "may never be able to extend beyond them, neither by conquest, nor by association between the American colonists." "It is," said the *Mémoire*, "as much in the interest of England as in that of Spain, France, and Holland, to stop them by force at the first infraction of the limits, and the first attempt towards extending beyond them." The *Mémoire* closed with the suggestion that it was the interest of England to have the French as partners at Newfoundland in preference to the Americans.

The correspondence presents, occasionally in a rather striking way, the difference in the tone in which Vergennes treated America and Americans when writing to conciliate and persuade Congress, or when writing for the advisement of Spain and of his own agents.

To Congress he gave the assurance which that body

accepted with the "utmost confidence," that "the king would do every thing in his power in the negotiation to secure the wishes of the Americans, and to support them in all points relating to their prosperity." On the other hand, in writing to Luzerne pending the negotiation (Oct. 14, 1782) touching Canada and further subsidies for the American army, Vergennes added: "You will yourself feel, sir, that this our way of thinking must be an impenetrable secret to the Americans: it would be in their eyes a crime which they would never forgive us. It behooves to leave them to their illusions, to do every thing that can make them fancy that we share them, and undertake only to defeat any attempts to which these illusions might carry them if our co-operation is required."<sup>1</sup>

With Spain, Vergennes was outspoken in his opinion of the Americans, and of the policy to be pursued towards them. He did not desire that the New Republic should remain the only mistress of the American Continent, but that she should be surrounded in such a way as to make the Americans "feel the need of sureties, allies, and protectors," and prevent them from becoming enterprising and troublesome neighbors. However high his opinion of American diplomacy when he first read the Provisional Articles, his earlier letters to Montmorin suggested that his opinion of the talents, views, and patriotism of Americans was weakened as he became better informed (November 2, 1778), and that he had but little confidence in the United States (November 27, 1778); and he spoke the next year in terms little flattering (July 18, 1779), of the "habitual torpor of Congress."

The letters of the French agents at Philadelphia occasionally give interesting details and reflections in regard to Congress; and the entire Vergennes correspondence in the Stevens' collection shows the policy and methods of that distinguished master in European diplomacy. One can hardly note without surprise the skill and confidence with which he undertook to carry out the wishes of Spain in regard to the boundaries and fisheries, by a management of

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<sup>1</sup> De Circourt, III., 290.

Congress, and a manipulation of the American press, through his skilful agents at Philadelphia; securing the appointment of four Peace Commissioners whom he approved, in addition to Mr. Adams whom he could not control, and effecting the passage of an instruction which is without precedent or parallel as a national humiliation, ordering them to undertake nothing in the negotiation for peace without the knowledge or the approval of the minister of the king of France, and ultimately to govern themselves by his advice and opinion.

This bold scheme seems to have been assisted by the distribution of "*Donatifs*," or as Circourt phrases it, "*Secours temporaires en argent*,"<sup>1</sup> for which a fund was placed at the disposal of Gerard, who handed it over to his successor Luzerne, with the names of those to whom money had been paid or promised. M. de Circourt refers to it as "this delicate subject," and adds that "it has been even in our day the subject of criticism and controversies," which may possibly be revived by Luzerne's revelations.

Among the recipients appear to have been a writer signing himself "Gallo-Americanus"; another, "An honest Politician," whom Luzerne had procured through members of Congress, and who had been promised \$1,000 a year; a third, "Americanus," of whom the minister writes "he is in need of money"; "Tom Payne," who had written to refute Raynal's book and to whom he had sent 50 guineas, although at first he had regarded Paine doubtfully, for the reason which seems a little incongruous in this connection, that "this writer had tarnished his reputation by selling himself to the opposition."

The entire scheme for building up by such means a Gallican party in the country to control the action and appointments of Congress, and to impose instructions which, assuming that they would be obeyed, made the king, as Marbois wrote, "master of the terms of peace," is full of interest as marking the extent of the danger which then threatened the Republic, and which again threatened it some ten years later in the attempt by partisans of France

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<sup>1</sup> De Circourt, III., 283 and Note 1.

to involve us in war with England, and to defeat the treaty by which that threatened war was averted ; and the letters of Vergennes and Luzerne lend new meaning and force to Washington's tender entreaties to his countrymen to beware of foreign influence.

The peace negotiations began after Jay had joined Franklin in Paris, June 23, 1782, the former conversations with Grenville and Oswald having been between parties with no power to act, and having led to no modification of the refusal of the English cabinet contained in the instructions September 1st, to accede to the American demand as regards the fisheries and boundaries.

It will be remembered that on the 10th of August, Franklin and Jay, in pursuance of their instructions, conferred with Vergennes on the first commission, sent to Oswald to treat with "the thirteen colonies or plantations." Franklin thought it would do ; Vergennes advised its acceptance ; Jay, who regarded his reasoning as "singular," firmly declined to treat except as an equal and independent power. Oswald recognized the reasonableness of Jay's view, but the English government, fortified by the position of France, of which Vergennes had advised Fitzherbert, hesitated to assent to the proposition for a commission to treat with the "United States of America."

Both the French and the English documents throw light upon the essential importance of this demand, which some American writers have treated as if it were a matter of form rather than of substance ; and Dr. Francis Wharton seems to adopt this idea when he remarks that "Shelburne was not disposed to break on a mere matter of form, and a new commission was issued to Oswald, in which the colonies were spoken of as 'the United States of America,' while at the same time Shelburne remained firm in the position that independence was to be recognized not unilaterally as a matter of grace, but bilaterally by treaty."<sup>1</sup>

But it would seem from the English correspondence that

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<sup>1</sup> Appendix to vol. III., "Digest of International Law," Washington, 1887, p. 905.

they did not regard the recognition of American independence in advance of the treaty as a matter of form. Oswald, for instance, wrote to Secretary Townsend (18 Aug., 1782): "The commissioners here insist on their independence, and consequently on a cession of the whole territory"; and Oswald treats their possible acquiescence in this demand not as "a matter of grace," but rather of necessity; for he continues: "And the misfortune is that their demand must be complied with, in order to avoid the worst consequences either respecting them in particular or the object of general pacification with the foreign states; as to which nothing can be done until the American independence is settled." To Shelburne he wrote: "Your lordship will see that the American commissioners will not move a step until the independence is acknowledged. . . . Until the Americans are contented Mr. Fitzherbert cannot proceed."

The British ministry, thus advised, seem to have been ready for any step rather than the acknowledgment of independence to induce the Americans to proceed, and Townsend advised Oswald on the 1st of September, that His Majesty, to preclude all further delay and embarrassment of negotiation, would waive any stipulation by the treaty "for the undoubted rights of the merchants whose debts accrued before the year 1775, and also for the claims of the refugees for compensation for their losses." And Oswald was ordered to exert his greatest address to induce the American commissioners to proceed with the treaty and be content with independence as one of its articles.

Nor was the recognition of American independence in advance of the treaty a matter of form and indifference to Vergennes; and one reason for his opposition to it was understood in London. On the 3d of September, Secretary Grantham wrote to Fitzherbert: "I have reason to believe that even the independency of America, however ultimately advantageous to France, would not, if accepted now by the commissioners, be a means agreeable to her, as the bond between them would thereby be loosened before the conclusion of a peace." To this Fitzherbert replied, on the 11th of Sep-

tember : " Your lordship was well founded in your suspicion that the granting independency to America as a previous measure is a point which the French have by no means at heart, and perhaps are entirely, averse from."

But beyond the natural desire of France to retain America in the war, a desire which an early recognition of American independence might tend to disappoint, a compliance by England with the position that America would treat only as an equal and independent power, would also tend to disturb the theory on which Vergennes rested his theories and plans for the future of America.

The national extent, resources, and power secured by the Provisional Articles, and which are now acknowledged to be unparalleled in the history of diplomacy, seem yet more extraordinary when compared with the narrow limits, the reduced resources, and restricted power which the courts of France and Spain had proposed to allot us, and to which in the future, with the aid of Great Britain, they hoped to confine us.

The correspondence of Vergennes shows at length the reasoning on which the French court based its efforts to exclude America from the fisheries and the boundaries, to wit : that the fisheries and the territories belonged to the British Crown ; that the United States were as regards that empire but revolted colonies, which by their voluntary renunciation of their allegiance had lost whatever rights in the fisheries and boundaries had been enjoyed by them as colonies.

Touching the Mississippi, Vergennes argued logically enough from the same premise, that " at the moment when the revolution broke out, the limits of the thirteen States did not reach the River, and it would be absurd for them to claim the rights of England, a power whose rule they had abjured." (To Luzerne, July 18, 1779.)

Such was the situation in Paris, with three grand difficulties in the way of a successful negotiation distinctly presented.

First, the refusal of Great Britain to treat with America as an independent power ; next, the hostile policy of France

in her own interest and that of Spain to the American claims, and her interference through Fitzherbert to prevent the recognition of independency in advance of a treaty; and thirdly, the peremptory instructions of Congress to be governed by the opinion of Vergennes. To complicate things still more, Franklin and Jay differed in their views as to the designs of France, and on the best policy for the American commissioners. And here occurred in succession the incidents that induced the sending of Vaughan to confer directly with Shelburne: first, the memoir of Rayneval denying our right to the Mississippi and our northern boundaries furnished an expression of his personal views, but recognized by Jay as authorized by his chief; next, the intercepted letter of Marbois denying our right to the fisheries; and lastly, the departure of Rayneval for England, under an assumed name and with special precautions for secrecy.

The unfriendly policy of the Bourbon powers towards the United States could only be carried out with the concurrence and aid of Great Britain, and Jay assumed that Rayneval's visit boded danger to the American claims, and that it would be safe to advise Shelburne, through a trusty messenger, of the American view on these points; and then came the selection of Vaughan as a trusted friend of Shelburne and of Franklin, his prompt acceptance of the mission, his advice to Shelburne to delay action with Rayneval till his arrival, and his departure on the 11th of September.

Jay wrote to Secretary Livingston: "It would have relieved me from much anxiety and uneasiness to have concluded all these steps with Dr. Franklin, but on conversing with him about M. Rayneval's journey, he did not concur with me in sentiment respecting the object of it, but appeared to me to have a great degree of confidence in this court, and to be much embarrassed and constrained by our instructions."

Few incidents in American history have called forth more animadversion, as based upon misapprehension or mistake, which are not readily forgiven in diplomacy: and the world has been repeatedly assured by historians that Rayneval's



course in England entirely disproved the suspicions caused by the manner of his departure.

We learn from "*Shelburne's Life*" that Rayneval, in one of his conferences with Lords Shelburne and Grantham, "played into the hands of the English ministers, expressing a strong opinion against the American claims to the Newfoundland fishery, and to the valley of the Mississippi and the Ohio"; and that "these opinions were carefully noted by Shelburne and Grantham." Vaughan had arrived almost simultaneously, bringing with him the observations prepared by Jay in reply to Rayneval's arguments, which had been rightly anticipated, and they presented for the consideration of the ministry these prominent points:

That as Britain could not conquer the United States, it was for her interest to conciliate them; that England should not be deceived by the affected moderation of France, since the people of the United States would not treat except on an equal footing; that it was the interest of France, but not of England, to postpone the acknowledgment of independence to a general peace; that a hope of dividing the fisheries with France would be futile, as America would not make peace without them; that any attempt to deprive the United States of the navigation of the Mississippi or of that river as a boundary would irritate America and tend to perpetuate her resentment; and that such an attempt, if successful, would sow the seeds of war in the very treaty of peace.

The effect of Vaughan's interview, disclosure, and arguments was instantaneous and complete. The cabinet at once resolved to avail themselves of the difference between America and her European allies in the war, to secure a negotiation with America without dictation or interruption from French intrigue. The new commission to treat with the United States of America was immediately ordered, and Shelburne wrote to Oswald: "We have said and done every thing which had been desired," and "we have put the greatest confidence I believe ever placed in man, in the American Commissioners."

The full meaning of this is implied in Oswald's letter of

October 5th, enclosing a scheme of the treaty in Jay's hand, approved by Franklin, with the remark: "I look upon the treaty as now closed."

The great victory of the English at Gibraltar, which determined the ministry to resist the demands of France and Spain, induced them to attempt also some modifications of those of the Americans. Strachey and Fitzherbert were ordered to assist Oswald, as his concessions had been made with the approval of the ministry; and the timely arrival of John Adams, fresh from his success in Holland, with a valuable experience of European diplomacy, brought great strength to the commission. Adams privately expressed to Franklin his thorough approval of the views and action of Jay, whom Franklin, when proposing to retire, (April 12, 1871) had desired as his successor near the French Court. Vaughan's mission had secured the recognition of the national independence in advance of the negotiation, and had ended the power of France and Spain to defeat our claims to the boundaries and fisheries; and now, with the influence and skill of Adams was removed the last great obstacle to success in uniting the commissioners in regard to the congressional instructions. At the first meeting of the commissioners with Mr. Oswald, Dr. Franklin turned to Mr. Jay and said: "I am of your opinion, and will go on in the business without consulting this court." And so the congressional instructions, which made France the master of the terms of peace, were unanimously set aside by all the commissioners as inconsistent with the interests of the Republic. Their harmonious, united, and successful policy in the spirited struggle at the close of the negotiations is a familiar story, on which the foreign archives throw but little new light, excepting that it is interesting to see, from the English despatches, how little their negotiations with "the thirteen United States of America" were marked by the Imperial tone that might perhaps have characterized their dealings with "colonies or plantations."

The Vergennes correspondence gives us, under the hands of Vergennes and Rayneval, their opinion of what America

had accomplished in the negotiation. Vergennes, who on the 14th of October<sup>1</sup> had denied our right to the lands bordering on Lake Ontario, and had described Jay's system as an insane illusion, *un pareil delire*, with the remark that "the American agents do not shine by the soundness of their views or the adaptation thereof to the political condition of Europe,—they have all the presumption of ignorance,"—wrote to Rayneval in England on the 4th of December, 1782<sup>2</sup>: "You will observe that the English have bought the peace rather than made it. Their concessions, indeed, as well as regards the boundaries as the fisheries and loyalists exceed all that I could have believed possible"; and he suggested that Rayneval, being in England, was in a better position than himself to discover their motive. But Rayneval responded that it seemed to him like a dream—and it does not appear, when they learned, if they learned at all, that it was Rayneval's secret visit to Shelburne, closely followed by Vaughan, which had defeated their careful schemes for the control of America.

While we observe the historic errors which have been current for half a century now corrected by the confidential correspondence of the courts of Europe, it should not be forgotten that the most eminent of the early historians of the Revolution, as well as Washington and his cabinet, saw the truth as clearly as it is seen to-day.

John Marshall, the illustrious Chief-Justice, in his "Life of Washington," with judicial fairness shows that the peace negotiations were protracted by causes which in America were almost unknown, and which it would have been dangerous to declare; that while the war had been carried on with one common object, as far as regards the dismemberment of the British Empire, the ulterior views of the belligerent powers were not only different, but in some respects incompatible with each other! That on the points both of the boundaries and the fisheries, "the wishes of France and Spain were opposed to those of America, and the cabinets

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<sup>1</sup> Vergennes to Lucerne at Philadelphia, de Circourt, III., 291.

<sup>2</sup> De Circourt, III., 50.

both of Versailles and Madrid seemed disposed to intrigue with that of London to prevent such ample concessions respecting them as the British minister might be inclined to make"; and Marshall pays his tribute to the penetrative judgment and firmness eminently displayed by the American commissioners, and to their success in persuading England that it was for her real interest that the United States should become independent in fact as well as name, and that every cause of future discord between the two nations should be removed.

The clear, calm, judicious, and accurate view of the peace negotiations taken by Washington appears in the memorable letter of Secretary Pinckney to Mr. Pinckney, the American Minister to France, dated January 19, 1797.<sup>1</sup> This letter was in reply to one of singular audacity from M. Adet, the successor, as French Minister, of M. Genet, charging the United States with duplicity, weakness, partiality, insensibility to claims of justice, violation of treaty engagements, and *ingratitude*. In replying to this latter charge, the Government of Washington reviewed the course of France, quoting largely from her own documents, and, among others, from the instructions to Genet, and said: "We see then that, in forming connection with us in 1778, the court of France, the actual agent of the nation, had no regard for the interest of the United States, but that their real object was, by seizing the occasion of dismembering the British Empire, to diminish the power of a formidable rival; and that when, after we had carried on a distressing war for seven years, the great object for which we had contended—independence—was within our reach, that court endeavored to postpone the acknowledgment of it by Great Britain, and eventually to deprive us of its fairest fruits—a just extent of territory, the navigation of the Mississippi, and the fisheries."

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<sup>1</sup> Secretary Pinckney's letter may be found in "American State Papers," I., pp. 559, 576, as presented by Washington to Congress. Fourth Congress, No. 118, Second Session. So much of it as related to the conduct of France in the war and the negotiations, is reprinted in Jay's "Address before the New York Historical Society, November 27, 1885," pp. 129, 143.

Washington at the same time, referred to the truly grateful sentiments and ardent affection of Americans for Frenchmen, to the loans of money, the aid in troops and ships in attacking the common enemy in the bosom of our country, and the acquaintance and personal friendships produced by their association.

Nor is there any good reason why the cordial recollections indulged by the people of both countries of the service rendered to America by the fleets of de Ternay and de Grasse, and the army of Rochambeau, from the arrival of the first at Newport to the closing victory at Yorktown, with the pleasant memories that are cherished of Lafayette, Laval, Montmorenci, Saint-Maine, Deux-Ponts, de Custine, D'Aboville, de Chastellux, de Fersen, de Noailles, and others, who maintained in our cause the dignity of their noble and historic names, should be displaced by the thought that the astute diplomatists of Paris and Madrid had agreed together, for the benefit of the House of Bourbon, to curtail our boundaries and restrict our power. The people of France were not responsible for the policy of Vergennes in the negotiation, and we may remember that it was condemned by a subsequent government of France, on an examination of official proofs, as marked by duplicity and characterized as "*une vile speculation.*"<sup>1</sup>

Nor should it be forgotten that the confidential correspondence of Vergennes on this point, disclosing his statecraft in the interest of France, which only the French Archives could so fully reveal, was given to the world by an accomplished Frenchman, an expert in the principles and methods of European diplomacy, and faithful to historic truth.

There are occasional allusions to the negotiation in the subsequent correspondence of Vergennes. To Luzerne he wrote, July 21, 1783, that what would suit them best was that "the United States may not assume the political con-

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<sup>1</sup> The letter of the Minister for Foreign Affairs, published in the *Moniteur Universel*, No. 358, for Sunday, December, 1792, as read at the *Séance* of the 21st, is given in Adams' Works, Appendix, I., 675, by Mr. C. F. Adams.

sistency of what they are capable"; and referring disapprovingly to England's cession to the United States of the navigation of the Mississippi, the Count referred with regret to Franklin's request to be recalled, adding: "I wish Congress might reject it, at least for the present, for it would be impossible to give Mr. Franklin a successor so wise, so conciliatory as himself. Besides, I should be afraid lest they should leave us Mr. Jay; and this is the man and with whom I would like least to treat of affairs."

Another passage is significant as showing the happy effect of the Provisional Articles—for the final treaty was not yet signed—upon the disposition of France to treat with consideration the new Republic: "We are much occupied with every thing relating to our commerce with America, and we feel more than ever the necessity of granting it encouragement and favor."<sup>1</sup> A further allusion to Jay's part in the negotiation occurs in a letter of Mr. Otto to Vergennes, dated January 10, 1786<sup>2</sup>:

"The political importance of Mr. Jay increases daily. Congress seems to me to be guided only by his directions, and it is as difficult to obtain any thing without the co-operation of that minister as to bring about the rejection of a measure proposed by him. . . . It is very unfortunate for us that, for a place so important, the choice of Congress should have fallen upon the very man who does not love us. The affair of the fisheries still lies heavy upon his heart. For the rest, whatever the prejudices of this minister toward us may be, I cannot deny that there are few men in America better able to fill the place which he occupies. The veneration with which he has inspired almost all members of Congress proves more than any thing else that even the jealousy so inseparable from the American character has not prevailed against him, and that he is as prudent in his conduct as he is firm and resolute in his political principles and in his coolness toward France."

Several historic writers, both in England and America,

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<sup>1</sup> Bancroft's "Constitutional History," I., p. 325.

<sup>2</sup> Bancroft's "Constitutional History," pp. 479, 480.

who have recently treated of the peace negotiations, have shown a correct understanding of the policy of France as disclosed in the correspondence of Vergennes, and of the difficulties which that policy created for the American commissioners. Their readers can now appreciate the wisdom and instant result of Vaughan's mission as shown by the "Life of Shelburne," in opening the eyes of the British cabinet, convincing the judgment of the British cabinet, crushing hopelessly and forever the labored scheme of France and Spain, so skilfully broached by Rayneval, securing at once the recognition of American independence as the basis of the negotiation, and the adoption of a general policy of justice and conciliation looking to a permanent cordiality and friendship.

Among the writers whose presentment of the truth will soon replace the travesties of the past, are Mr. Lecky, in his sixth volume of the "History of England"; Mr. John I. Morse, Jr., in his "Biography of John Adams"; Col. T. W. Higginson, in his "Larger History of the United States," New York, 1886; Mr. John Fiske, in his sketches of John Adams and Benjamin Franklin, in Appleton's "Cyclopædia of Biography," New York, 1887-88; Mr. Wm. Whitelock, in his "Life and Times of John Jay," New York, 1887; and Mr. Theodore Roosevelt, in his "Life of Gouverneur Morris" ("American Statesmen Series," New York, 1888), which appears as these pages are passing through the press. The testimony of Lecky and of Fiske, from the philosophic character of those great historians, are especially worthy of note.

"It is impossible," says Lecky, "not to be struck with the skill, hardihood, and good fortune that marked the American negotiation. Every thing the United States could with any shadow of plausibility demand from England they obtained, and much of what they obtained was granted them in opposition of the two great powers by whose assistance they had triumphed. The conquest of France was much more than counterbalanced by the financial ruin which impelled her with giant steps to revolution. The acquisition

of Minorca and Florida by Spain was dearly purchased by the establishment of an example which before long deprived her of her own colonies; Holland received an almost fatal blow by the losses she incurred during the war; England emerged from the struggle with a diminished empire, and a vastly augmented debt, and her ablest statesmen believed and said that the days of her greatness were over. But America, although she had been reduced by the war to almost the lowest stage of impoverishment and impotence, gained at the peace every thing that she desired, and started with every promise of future greatness upon the mighty career that was before her."

Mr. Fiske says: "Vergennes was outgeneralled at every turn. On the part of the Americans the treaty of 1783 deserves to be ranked as one of the most brilliant triumphs of modern diplomacy. Its success was about equally due to Adams and Jay, whose courage in the affair was equal to their skill, for they took it upon themselves to disregard the explicit instructions of Congress. . . . Franklin would have followed these instructions; Adams and Jay deliberately disobeyed them, and earned the gratitude of their countrymen for all coming time."<sup>1</sup>

"Had the affair been managed by men of ordinary ability, the greatest results of the revolutionary war would probably have been lost; the new Republic would probably have been cooped up between the Atlantic and the Alleghanies; our westward expansion would have been impossible without further warfare, and the formation of our Federal Union would doubtless have been effectively hindered or prevented.

"To the grand triumph the varied talents of Franklin, Adams, and Jay alike contributed. To the latter is due the credit of detecting and baffling the sinister designs of France; but without the tact of Franklin this probably could not have been accomplished without offending France in such wise as to spoil every thing."<sup>2</sup>

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<sup>1</sup> Article "John Adams," Appleton's "Cyclopædia of American Biography," I., p. 19.

<sup>2</sup> Article "Benjamin Franklin," Appleton's "Cyclopædia of American Biography," II., p. 533.



While a cursory glance of the Stevens collection on the Peace confirms and illustrates the historic facts so long ignored and denied, which are established by the documents printed by de Circourt, the Stevens collection invites and deserves a more thorough examination by students of history who would thoroughly examine the confidential documents that, after the lapse of a century, have appeared to dispel the clouds of error and prejudice which have obscured the closing chapter in the history of our revolution. In developing the policy which aimed at the creation, by questionable methods, of a French party in the politics of America, with the view of controlling her legislation and dwarfing her future greatness, the Stevens collection may throw light on questions which as yet have received but little light from foreign archives. Should there be any hesitancy on the part of Congress to accede in full to the proposition of the historic writers and scholars of the Republic, for securing proper indexes to the documents relating to America in foreign archives, it is to be hoped that there will be neither hesitation nor delay in securing at once the Stevens collection of manuscripts on the Peace negotiations.

The next paper was a memorial sketch of Leopold von Ranke, the only honorary member of the American Historical Association, by the secretary. Ranke's letter of acceptance was read at the opening meeting of the Association in Washington, April 27, 1886. He died in Berlin the 23d of May following. This biographical sketch was originally prepared at the request of the American Academy of Arts and Sciences and appears in their Proceedings, vol. XXII., part 2, pp. 542-558. In the interest of the American Historical Association and with the permission of the above Academy, the sketch is reproduced in this connection, together with an anecdote of Ranke told by Dr. Schaff, and with supplementary notes by Dr. Frederic A. Bancroft, of New York, who was one of the last American visitors whom Ranke ever received. A selected bibliography of writings concerning the life and influence of Leopold von Ranke has been appended by the secretary.

### Leopold von Ranke.

Heredity is an important element in the making of great men. While this factor alone does not suffice to explain such a phenomenon of historical genius as Leopold von Ranke, it is at least worthy of careful observation. Dr. Oliver Wendell Holmes, in his biography of Emerson, has clearly shown the effect of heredity in the development of the Concord philosopher from a long line of cultivated New England clergymen. In studying the descent of Ranke, one is impressed with a similar fact. For several generations, indeed as far back as his progenitors can be traced, they were liberally educated men; and they were all clergymen with the sole exception of Ranke's father, Gottlob Israel, who at the University of Leipzig changed his course from theology to law; but he afterward repented his choice and urged Leopold, his oldest son, to become a clergyman. In fact, the youth studied theology, in connection with the classics, at Leipzig, and once spoke in his brother Heinrich's church at Frankfurt on the Oder, where the coming historian taught school before his call to Berlin. While one of his brothers actually became a clergyman, Leopold and three others were differentiated from the pastoral stock and became university professors. The historian's son, Otto, reverted to the original type, and is now a pastor in Potsdam.

The best sources of information respecting Ranke's early life and the characteristics of his family are his brother Friedrich Heinrich Ranke's "*Jugenderinnerungen*," which reveal wonderful powers of exact description, and withal charming glimpses into German homes and German local life; and Ranke's own "*Lebenserinnerungen*," fragments of which were published in the *Deutsche Rundschau* for April, 1887. Ranke says: "Die Vorfahren, die uns bekannt sind, waren alle Geistliche, meist in der Grafschaft Mansfeld." He sketched his family history from the seventeenth century. The oldest known ancestor was Israel Ranke. "Er lebte ganz seiner Pfarre," says Ranke. Israel had a brother Andreas, who was a clergyman and "ein Gelehrter." He wrote dissertations, and was fond of mingling local history with his sermons; indeed, Ranke says this man's work is

quoted to this day as an authority in his parish. Among the great historian's ancestors was a second Israel Ranke, a clergyman of such broad views that he prayed for God's blessing upon his labors in the liberal arts ("auch in den freien Künsten"), so that he might be of service to his fellow-men. Here, perhaps, lay the ancestral germ of that fair humanity which Leopold von Ranke developed in all his writings. The historian's grandfather, Heinrich Israel, was also a clergyman, and lived to the age of fourscore (1719-99).

Longevity appears to have been an hereditary trait in the Ranke family. This trait was strengthened, if not developed, by the regularity and quiet life incident to the clerical profession in country districts. Men have not yet ceased to marvel at the phenomenon of Leopold von Ranke beginning a history of the world in his eighty-fifth year, and continuing the same with unabated mental vigor until past the age of ninety; but that phenomenon has a physical basis laid by generations of long-lived, earnest, intellectual men. Nothing is so wonderful in the life of Ranke as his persistent, indomitable activity, or what the Germans call "*rastlose Thätigkeit*"; and yet this tireless energy was but an intensified, highly specialized form of that systematic, almost religious devotion to work and duty which has characterized German pastors since the days of the Reformation. Superadded to this habit of methodic toil, characteristic indeed of all German scholars and of most professional men, was the equally methodic habit of rest and recreation, in which matters the Germans surpass their Anglo-American kinsmen.

In early years Ranke was fond of horseback riding and of athletics. With his brother Heinrich at Frankfurt, he was a follower of Father Jahn, from whom our modern gymnastics and first gymnasia came. Through all his later years Ranke was devoted to long and pleasant walks in the open air and sunshine. Thus he cultivated perpetual health, and maintained that serenity of mind and heart which illuminates all his works. To these same physical facts of open-air exercise and regularity of life are due in great measure the vigorous

longevity of America's oldest historian, Mr. George Bancroft, who at the age of eighty-seven is quietly preparing to continue in outline his "History of the United States" through the present century. To the same simple German regimen of work and recreation we may perhaps ascribe other kindred phenomena; for example, Schlosser writing world history in Heidelberg at the age of eighty-five, and Alexander von Humboldt completing his "Cosmos" at the age of ninety. Good habits and a good constitution were the foundation of Ranke's longevity. His brothers also were long-lived. The youngest, a Professor of Theology in the University of Marburg, is still living.

If heredity had its influence upon Leopold von Ranke, history and education finished the product. He was born in a revolutionary epoch, in a time of war and political commotion. The little town of Wiehe, in the so-called Golden Aue of Saxon Thuringia, was his birthplace, and the 21st of December, 1795, was his birthday. That very year the armies of the French Republic began their successful inroads upon Germany, and that year Prussia, by secret treaty, gave up to France the left bank of the Rhine. It was the beginning of the end of the old German Empire and of the political reconstruction of feudal Europe by Napoleon Bonaparte. Ranke when a boy saw the march of French invaders past the doors of his school. He heard the distant cannon of the French at Jena and Auerstädt. His lessons in reading and writing were Napoleon's bulletins from the Spanish peninsula. The word "insurgents" first came into his vocabulary from the published accounts of the Spanish uprising, prelude to the larger movement of Russia and Prussia for the liberation of Europe. When the news of the retreat of the grand army from Moscow began to penetrate Germany, young Ranke was reading the Agricola of Tacitus. The speech of the British Queen Boadicea, animating her subjects to repel the Roman invader, acquired a new meaning to Ranke as the thought of casting off the French yoke began to penetrate the patriotic German mind. "There," says Ranke himself, "within cloister walls and in the midst

of classical studies, the modern world first came into my head."

The Napoleonic wars were, then, the historical influence which led Ranke, the favorite classical pupil at Schulpforte, through the gates of modern history. He was early drawn to historical studies by the fact that one of his classical instructors gave him subjects for Latin verse drawn from the local history of Saxon Thuringia. "Besonders war es sächsische und thüringische Geschichte die dann durch die nahen historischen Plätze einen besonderen Reiz für die Jugend bekam." Although at the University of Leipzig Ranke continued with great zest his classical studies, he retained an essentially modern spirit. He was a great admirer of Goethe, who was at that time introducing "eine moderne Classicität" into German life and studies. Luther, however, was his favorite character. His earliest historical ambition appears to have been to prepare a literary memorial of the great German Reformer, to be published in 1817, on the occasion of the three hundredth anniversary of the nailing of the ninety-five theses upon the church door at Wittenberg. That same year, 1817, Ranke took his doctor's degree. From that date his student purpose began to widen. From the idea of a new biography of Luther sprang the larger thought of the reconstruction of modern European history, from the time of the German Reformation.

Of all the men who influenced Ranke's development, Luther undoubtedly stood first. Next to him were Thucydides and Niebuhr. From the one Ranke took his pregnant artistic style; from the other, his critical method. The lessons derived from a careful study of ancient history were applied to modern history. Ranke himself says that Niebuhr's "History of Rome" exercised the greatest influence upon his own historical studies. "It was the first German historical book which made an impression upon me." Ranke, however, developed Niebuhr's critical method, and eliminated certain faults. While an admirable critic of sources, Niebuhr read into his version of Roman history a variety of moral and philosophical views unwarranted by

the existing evidence ; while undermining ancient traditions he built up new structures upon unsafe foundations. From fragments of truth he undertook to construct the whole truth by a somewhat fanciful and imaginative process. Ranke, on the other hand, determined to hold strictly to the facts of history, to preach no sermon, to point no moral, to adorn no tale, but to tell the simple historic truth. His sole ambition was to narrate things as they really were " wie es eigentlich gewesen." Truth and objectivity were Ranke's highest aims. In his view, history is not for entertainment or edification, but for instruction. He would not tolerate inventions and mere fancies or assumptions. He did not believe it the historian's province to point out divine providences in human history, still less to proclaim that history is a *Weltgericht*. Without presuming to be a moral censor, Ranke tried to bring historic truth in its purity before the world. He cultivated withal an artistic style, always choosing a form of expression which rose above the trivial and the commonplace. In this respect he was influenced not merely by classical models, but by the style of Johannes von Müller. To avoid such false coloring as had been given to history by Sir Walter Scott and writers of the Romantic School, was one of Ranke's favorite ideas. Thus the weakness as well as the strength of other men was an educating influence in the development of Leopold von Ranke.

His first book was written at Frankfort-on-the-Oder, whither he was called in 1818, to be a teacher in the Frankfort Gymnasium, or classical school. The book was published in 1824, when Ranke was twenty-nine years old. It is the best introduction to a study of Ranke's writings, for, as the writer himself said in later life, it constitutes the foreground of modern history and contains a preparation for most of the later works of the author. His principles of historical criticism and his ideas of history are there clearly stated, and the book is still regarded in Germany as the best general exposition of Ranke's method.

His book was called a " History of the Latin and Teutonic Nations." The narrative portion has been translated into

English since Ranke's death by Ashworth, the translator of Gneist. The work is accessible to any English reader in Bohn's Standard Library, although the critical appendix to the original work, Ranke's "*Kritik neuerer Geschichtsschreiber*," is unfortunately omitted. In this critique, Ranke examined the literary foundations of early modern history. He considered with great care the work of Machiavelli and Guicciardini, two representative Italian historians; also two German historians, and one Spanish and one French authority. In each case Ranke's object was to discover how far the writer's statements were original and trustworthy. Ranke was one of the first scholars to vindicate the character of Machiavelli. On the other hand, he was the first to expose Guicciardini, whose history was shown to have no solid foundation and to be written for romantic effect.

In his own narrative Ranke begins by sketching, in a few bold and striking lines, the great facts which mark the essential unity of the Latin and Teutonic nations: on the one hand, the Italian, French, and Spanish; and on the other, the German, English, and Scandinavian. Ranke shows that these six peoples have all passed through the same phases of internal history, and have all been borne along by the same great current of external experience. The chief tributaries of European history are seen to flow together into the great modern stream which issues in a new world. Three connected events are pointed out: 1, the migrations; 2, the Crusades, begun by the Normans, who ended the Teutonic invasion of Italy; and 3, the colonization of new countries, a movement still in progress, but sprung from crusading enterprise. These three great facts, says Ranke, connect both the times and the peoples. "They are, if I may so speak, three great respirations of this incomparable union." Another expression of the essential unity of Latin and Teutonic nations Ranke saw in the Spanish monarchy of the House of Hapsburg, against which France revolted at the time Northern Europe threw off the yoke of the Papacy. The resultant struggles constitute the chief interest of modern history. Ranke's introductory work covers

the brief period from 1494 to 1514. Modern political history is shown to begin with the French invasion of Italy by Charles VIII. In the resultant wars, the leagues and counter leagues, which ended in the expulsion of the French from Italy, as they were afterwards expelled from Germany, one can almost see prefigured the modern struggle of European states. It was no chance which led Leopold von Ranke, after the German War for Liberation, to turn back to the Italian beginnings of this long contest for supremacy

Ranke's first book was an immediate success. Scholars recognized at once that the author was a *Weltgeist*, discerning vast unities where other men had seen only infinite particulars. Through the influence of Altenstein, the Prussian Minister, Ranke was called to the University of Berlin in 1825, although he was not made full professor until 1836. Ranke had borrowed the literary materials for his first book from the Berlin collections. Indeed, it was jocosely said, before his call, that it would be necessary either to invite Ranke to Berlin or to remove the royal library to Frankfort. It may be confidently asserted that the literary environment of the university made Ranke's historical work a possibility. In Frankfort he had used only printed books. In Berlin, following the track of Johannes von Müller, he came upon the manuscript relations of the Venetian ambassadors, in forty folio volumes. They were not originals, but transcripts. It was once the fashion with princes and nobles to secure copies of state papers and diplomatic correspondence for their private libraries. Venetian despatches were always prized, because they were the best and fullest. Venice had the best diplomatic system in Europe. She sent her ambassadors in rotation to Rome, Madrid, Paris, Vienna, and Constantinople; she had representatives in the chief courts and centres of trade. She required diplomatic reports every fortnight, and these were read to the Senate, which contained many diplomats who had retired from foreign service after years of experience. Consequently Venetian ambassadors took great pains to be accurate in their observations



and sound in their judgments; otherwise they would have fallen into disrepute with the home government.

Respecting this new source of modern European history which Ranke rediscovered in the royal library at Berlin he said: "Whatever be the event upon which one may wish information in this great period of history, here he will usually find carefully prepared reports, with exact details, almost always suited to help solve the problem." Ranke went through the entire Berlin collection of forty folio volumes, and afterwards found a dozen volumes more at Gotha. One he acquired for himself. In this connection, it may be worthy of note that eight folio volumes of copied Venetian manuscripts from the Greystoke Library, England, were not long ago offered by special letter to the American Historical Association for something over \$1,500. Like those manuscripts found by Ranke, they are transcripts from the original despatches of Venetian ambassadors at the various European courts, and were executed for a private library under the superintendence of an English diplomatist accredited to Venice.

Upon the basis of such novel materials Ranke entered upon his great career as the historian of modern European states. In 1827 was published his "Princes and Peoples of Southern Europe in the Sixteenth and Seventeenth Centuries," the first volume relating to the Ottoman Turks and the Spanish monarchy. From 1827 until 1831 he was allowed a four years' leave of absence for the study of foreign archives. He visited the libraries of Vienna, Rome, Florence, and Venice, everywhere making valuable discoveries of fresh materials for modern European history. Ranke's researches in Italy have been compared to Humboldt's observations in the New World. Libraries and archives are for the historian what laboratories and nature are to students of natural science. Ranke's work in Italian, especially Venetian archives, marks an epoch in the study of modern history. Before his time, historians had been content with printed books and other men's opinions. Ranke went to the primal sources of political information, to state papers, diplomatic corres-

pondence, and original documents. With regard to such rummaging in archives, Ranke once said: "He needs no pity who busies himself with these apparently dry studies, and renounces for their sake the pleasure of many joyful days. These are dead papers, it is true; but they are memorials of a life which slowly rises again before the mind's eye." Ranke saw in history the immortality of the past.

The most notable result of Ranke's Italian studies is his famous "History of the Popes of Rome in Church and State in the Sixteenth and Seventeenth Centuries." This work, which some critics regard as Ranke's masterpiece, and which was introduced to English readers by Macaulay's famous essay, is a continuation, in the ecclesiastical field, of the "Princes and Peoples of Southern Europe." It reviews, however, the entire history of the mediæval Church, and is perhaps for the general reader the most interesting of all his early works.

While in Italy, Ranke met a Servian refugee named Wuk, and drew from him a narrative of the Servian revolution, which is one of his best minor writings. Niebuhr said it was the best book in literature upon a contemporary event, and one whereof Germany might well be proud. In this connection it may be said that, in general, Ranke was strongly opposed to writing history with a political tendency. His inaugural address upon assuming the duties of a full professor, in Berlin, in 1836, was upon the relation and difference between history and politics. Therein Ranke states the true view when he says: "A knowledge of the past is imperfect without an acquaintance with the present; there is no understanding of the present without a knowledge of earlier times. The one gives to the other its hand; neither can exist or be perfect without the other."

Ranke was by nature and associations a conservative in politics. From 1828 to 1836 he and Savigny edited the *Historische-politische Zeitschrift* which was distinctly opposed to the liberal and democratic spirit of the age. Ranke lived in a period of political reaction. Cautious

statesmen were turning away in distrust from the revolutionary spirit begotten by France. Scholars were urged to strengthen the foundations of existing society by reviving a knowledge of an illustrious past. It was a period most favorable to historical studies, although not to political progress in popular ways. By conservative methods of reconstruction, scholars and statesmen hoped to build up Germany anew. Eichhorn studied early Germanic law and institutions. The Grimm brothers studied Germanic folk-lore. Savigny investigated the history of Roman law in the Middle Ages. Niebuhr wrote his Roman history, and Ranke carried Niebuhr's idea into the history of modern Europe, with a specifically German impulse proceeding from Luther and the German Reformation. At the patriotic instance of Baron von Stein, an historical society was founded at Frankfort-on-the-Main in 1818, for the reconstruction of German history from the very foundations. By Stein's recommendation George Pertz was engaged to edit the original sources of German history, now well developed in a magnificent series of volumes called the "*Monumenta Germaniæ Historica*." Pertz was also put in charge of the royal library at Berlin, which became the centre of historical activity for all Germany, as it is now the centre of politics for the new German Empire. The conservatives were perhaps wiser than the radicals in that slow historical upbuilding of now reunited Germany.

Into this process of peaceful, scientific reconstruction, not only of Germany, but of modern Europe, Ranke entered heart and soul. He was pre-eminently the man who taught young Germany how to utilize the historical materials which Pertz was beginning to collect and publish. Ranke early instituted at the University of Berlin an historical seminary, or, as it was then called, historical exercises, for the critical use of the original sources of mediæval history. While his own work was for many years in the modern field, he preferred to keep his students upon mediæval ground, where materials could be better mastered. A little company of advanced students met once a week in

Ranke's own library, and learned, under his direction, to apply the critical method. This was the origin of the famous Ranke school of historians, of which Germany is now full. Three generations of historical scholars have been trained under his direct or indirect influence. Dr. Jastrow, of Berlin, from whom the writer obtained some materials for the present sketch, says there is not a single professor of history at any German university to-day who is not a product of the Ranke school.

By the use of this term "school," it is not meant that all of Ranke's students were cast in one mould. On the contrary the great historian took special care to develop the individual talent and peculiar strength of all his pupils. The marvellous variety of men and work that have issued from Ranke's historical laboratory is the best proof of the broad views of its director. Among Ranke's pupils are such widely different specialists as George Waitz, author of the "Constitutional History of Germany," and Pertz's most illustrious successor in editing the *Monumenta*; Heinrich von Sybel, editor of the *Historische Zeitschrift* and author of the best German work upon the period of the French Revolution; Wilhelm von Giesebrecht, the historian of the German emperors; Max Duncker, author of the best German "History of Antiquity," particularly of the Orient; and Wattenbach, the historian of the Papacy and author of "Deutschlands Geschichtsquellen." Ranke's influence is not confined to Germany. A recent article upon Ranke, by Hans Prutz, says that in Ranke's school were trained those men who to-day in France and England are pursuing the most scholarly investigations in history. M. Gabriel Monod and Bishop Stubbs are cases in point. According to Ranke's method, the best historians of newly awakened Italy are now working. Prutz says that the newly founded American Historical Association signified its obligations to Ranke in extending to him, when he was ninety years old, through its president, George Bancroft, an election to honorary membership.

Ranke's success as a university professor was of the high-

est kind, for he not only made remarkable contributions to his chosen science, but trained up a generation of historians who have extended his critical methods far and wide. As an academic lecturer he was never popular. President Andrew D. White, in *The Forum* for February, 1887, has given a graphic and amusing picture of Ranke in his lecture-room: "He had a habit of becoming so absorbed in his subject as to slip down in his chair, hold his finger up toward the ceiling, and then, with his eye fastened on the tip of it, go mumbling through a kind of rhapsody, which most of my German fellow-students confessed they could not understand. It was a comical sight: half a dozen students crowding around his desk listening to the professor as priests might listen to the Sibyl on her tripod, the other students being scattered through the room in various stages of discouragement." This description is confirmed by the testimony of many of Ranke's German pupils. Alfred Stern says Ranke never had what men call a good delivery. Leaning carelessly back upon his chair, his great blue eyes looking toward the ceiling as though he saw rising there the shadows of the past, he ran together in a feeble voice sentences that were often hardly intelligible, until suddenly a striking word, a brilliant comparison, a grand thought of universal significance, thrown out with lively gestures, seemed to break through the chain of mysterious oracular sayings like a flash of lightning. At first, continues Stern, Ranke was not attractive to young students. The historical exercises in which, as instructor in a private and select circle, he enjoyed his greatest triumphs, did not establish a reputation until later.

Ranke's chief activity continued to be in the line of original contributions to modern history. From 1839 to 1847 was published his "History of Germany in the Period of the Reformation," in six volumes. Fresh materials for this great work were found at Frankfort-on-the-Main, in the proceedings of the German Diet from 1414 to 1613, in ninety-six folio volumes. These archives proved almost as important as the relations of the Venetian ambassadors. Sixty-four folio

volumes of records and reports were digested by Ranke for his "German History." With remarkable liberality the authorities at Frankfort allowed Ranke to take selections from this great collection to Berlin for use in his own library. Other municipal archives were opened to his researches; for example, the records at Weimar. The royal archives of Prussia and Saxony were likewise placed at his service. By this generosity a vast collection of absolutely new material was accumulated by Ranke for his work. New contributions drawn from fresh sources of information were always Ranke's aim in writing history. It was a maxim with him not to relate things which everybody knew already. These ideas have borne rich fruit, not only in Ranke's own contributions to European history, but in those made by his students, who, like their master, have widened the domains of historical science.

Ranke's "German History" was followed by his "Nine Books of Prussian History," a work afterwards extended to twelve books. This special contribution was partly due to the fact that in 1846 Ranke was made historiographer of Prussia, an office which he held until his death, and which doubtless suggested further Prussian contributions. From Germany the idea of national history during the period of the Reformation was extended by Ranke to France and England. His work on the "History of France" is based upon original studies in French archives. It embraces the period of the religious wars and the full development of French absolutism. Ranke's French studies threw new light upon such characters as Catherine de' Medici, Henry IV., Richelieu, Mazarin, and Louis XIV. Ranke's "History of England" covering the period of the Stuarts and of both Revolutions, in nine volumes, appeared in the years from 1859 to 1861. Like all his previous work, this also was based upon original studies. Ranke betook himself to the British Museum and to the Record Office in London. The English reader may be quite sure that he will find in Ranke's "History of England" facts and deductions which no previous historian had reached. Lord Acton, who is said to be the best-read man

in England, in his brilliant article on "German Schools of History," published in the first number of the *English Historical Review*, says that Ranke "alone among writers of prose has furnished a masterpiece to every country."

The completion of the "History of England" marks the completion of a grand circuit of European history by Leopold von Ranke. He had passed in historical review the great states of modern times. He was now nearly seventy years of age. He was raised to the rank of the nobility on the occasion of his seventieth birthday. He enjoyed the admiration of all Germany and the appreciation of the learned world. The fiftieth anniversary of his doctor's degree was celebrated by enthusiastic pupils, and the event was marked by a new and complete edition of his writings. Thus crowned with honors and with years, he might well have thought of retiring from further labor; but Ranke's activity suffered no diminution. He was indeed relieved from the responsibility of further lecturing at the Berlin University. His name was retained in the catalogue for twenty years longer, and students read after that famous name the words *liesst nicht*. During this period of pensioned leisure, accorded to Ranke by the Prussian government, he produced in quick succession that wonderful series of contributions to German history: 1. "German History from the Religious Peace to the Thirty Years' War"; 2. "History of Wallenstein"; 3. "Origin of the Seven Years' War"; 4. "History of Austria and Prussia between the Peace of Aix la Chapelle and Hubertsburg"; 5. "The German States and the League of Princes"; 6. "Origin and Beginning of the Revolutionary Wars of 1791-92"; 7. "Memoirs of Hardenberg," which, like the "Memoirs of Metternich," were kept back for half a century; and 8. "Life of Frederick William IV." The last-named of these writings brings Prussian history down to the time of William I. Such a brilliant series of contributions by an historian who had long passed the allotted term of human life seemed to the world nothing short of marvellous.

A greater surprise was that in 1880, when it was rumored

that Leopold von Ranke, now eighty-five years old, was writing a "History of the World." Dr. George Winter, one of Ranke's private secretaries at this period, narrates in his charming "Erinnerungen" how Ranke first made known to him this new project. Ranke had taken a fortnight's vacation, the only one on record in the latter part of his life. He had been to visit General Manteuffel at his country seat. To the astonishment of his friends Ranke took no books with him upon the journey. He said he was going for recreation, and meant to talk with Manteuffel. Upon his return, Ranke handed his secretary a manuscript biography of Frederick the Great, dictated during the two weeks' absence without consulting a single book. That wonderful sketch, thrown off apparently for historical amusement, may be found in the "Allgemeine Deutsche Biographie," of which Ranke was the founder. This biography of Frederick the Great was, however, a trifling surprise compared with Ranke's announcement that he had made up his mind at General Manteuffel's to write a "History of the World." At first Dr. Winter thought Ranke meant perhaps a brief philosophy of history, but he soon found that the old historian had in mind something much more elaborate than a philosophical sketch. He meant a fresh study of universal history from original sources. He proposed a "Weltgeschichte" in a series of volumes.

This vast undertaking was the crowning glory of Ranke's life. All his previous writings were but a scientific preparation for this final task. "History," said Ranke in his inaugural address, "is in its very nature universal." It has been said with truth that Ranke never wrote any thing except universal history. He treated individual countries, England, France, and Germany, not as isolated phenomena, but as illustrations of world-historic ideas expressed in individual European states. For Ranke, as for Abelard, the universal always lay in the particular. Ranke's very first book, on the "History of the Latin and Teutonic Nations," was really a contribution to universal history. There is a perfect unity, therefore, between the beginning and end of



Ranke's life-work. His "Weltgeschichte" was but the natural supplement of all that had gone before.

A basis for the proposed history had been laid in a course of lectures by Ranke to King Maximilian of Bavaria, upon "Weltgeschichte." These lectures, says Dr. Winter, still existed in manuscript, and were taken as an outline of the new work. Ranke entered with his secretary upon a fresh study of the ancient historians. The original texts were read aloud, for Ranke could no longer use his eyes for studious work. Copious extracts, with critical observations by Ranke, were collected in great folio volumes, which he called his timber. Although for sixty years the man had devoted chief attention to modern history, he returned now to the classical studies of his youth with almost boyish enthusiasm. He recognized with profound gratitude his debt to the old cloister school of Schulpforte, reformed by Melancthon and the German humanists. Classical culture was the fountain-head of Ranke's historical learning, and it now came into full play.

Ranke was eighty-five years old when the first volume of his "Weltgeschichte" was published. He had begun the work in secret with Dr. Winter some time before. From the appearance of the first volume, the work advanced with great rapidity. "I am an old tree," wrote Ranke to the Empress, "but every year I bear my fruit (*und ich bringe doch alle Jahre meine Frucht*)."

Alfred Stern, writing of this wonderful productivity, says: "We all remember still how every year, at regular intervals, appeared one part after another of Ranke's 'Cosmos,' until his narrative reached the greatest imperial personage of the Saxon dynasty,—the Emperor who sprang from the very region of Ranke's narrow home, by the rushing Unstrut, where the Palatinate once flourished at Memleben." Thus Ranke's life-work, having compassed the history of many nations, ended where it began, in Saxon Thuringia, whose stirring local history had first quickened his poetic imagination when he was a boy at school. Ranke's "Weltgeschichte" was left unfinished, but it connects with all his earlier studies in modern history,

the beginning of which he always sought far back in the Middle Ages. An American once asked Ranke if he really expected to finish his "*Weltgeschichte*." "*Lieber Freund*," said Ranke, "*ich glaube, und wenn Gott will, dass ich mein Werk vollende, so werde ich es vollenden.*" To other persons he once said: "I have made a compact with God; he must still give me five or six years for the work, then I will gladly go."

Ranke's last labors upon his "*Weltgeschichte*" were heroic. Suffering from old age and bodily infirmity, he resolutely subdued himself each day, saying to his secretary: "Now we must forget these pains, and devote ourselves entirely to the Muse." He worked night and day, Sundays and holidays included. He took only one day's vacation in the entire year, and that was not from choice, but simply because his secretaries positively refused to work on Christmas. He wore out daily the best energies of two young men in collecting materials and in writing from rapid dictation. Although Ranke had what Kaulbach called the eyes of old Fritz, they could not be used for reading or writing. He worked under obstacles that would have appalled younger men. To attempt a critical study of the sources of universal history without the use of one's eyes would have dismayed any one except Ranke. His wonderful memory for details—a characteristic of his family,—and unerring instinct for truth, were the qualities which, in spite of all hindrance, made his work advance rapidly and surely.

His habits of toil were most systematic. He rose at nine o'clock in the morning, and after a simple German breakfast, worked steadily until two in the afternoon, when he received visitors for a brief interval, and then walked for an hour or two in the Berlin Park, or Thiergarten, enjoying the sunshine and fresh air. The only thing which annoyed him in that attractive place was the sight of men smoking. He had a most unconquerable aversion to tobacco. He said he never could understand why sensible men could walk abroad in God's free, beautiful nature with a cigar in the mouth.

Returning home at four o'clock, Ranke dined and indulged in a comfortable after-dinner nap, after which he was again to be seen by his friends. At seven o'clock in the evening he was ready for his second secretary, with whom he worked continuously until past midnight. From eight to ten hours' work was Ranke's daily habit for many years. It may afford a trifling solace to the friends of early rising and the enemies of night-work to learn that Ranke was informed in his ninety-first year by his physician that he must change his mode of life and give up late hours. Ranke's method of quiet, uninterrupted, continuous work, sustained by sufficient sleep, simple diet, and regular exercise, goes far toward the explanation of his wonderful energy. It has been suggested that the congenial nature of his occupation recruited his strength and prolonged his life. Work was certainly his only delight. His motto was *Labor ipse voluptas*.

In spite of Ranke's unremitting habits of toil, he was a genial, companionable man, beloved by all his friends and students. His early life in Berlin and Italy was eminently social and *gemüthlich*. Von Reumont has given a pleasing picture of Ranke and his Italian days (*Historisches Jahrbuch*, Band VII., 4 Heft). He was a great favorite in Berlin society, and was a personal friend of Frederick William IV., as well as of the great scholars of his time—Alexander von Humboldt, Savigny, Eichhorn, Boeckh, Ritter, Hegel, Neander, Niebuhr, and Goethe. Although he remained a bachelor until the age of fifty, he was always fond of the society of cultivated women. Indeed his name is somewhat romantically associated with Bettina von Arnim and Rahel Varnhagen von Ense, both of whose conversational powers and *bel esprit* he much admired. He married at last, in 1845, an attractive Englishwoman, to whom he was truly devoted, and whom he survived by many years. Two sons and one married daughter are now living. One of his sons, Otto, is a clergyman, and therefore perpetuates the theological instinct of the Ranke line of pastors. It was through this theological connection that the sale of Ranke's private

library was negotiated for the benefit of an American institution. The historian himself was a man of deeply religious nature, although he never attempted, like Bunsen, to determine special providences in human history. Ranke always gave the facts.

In personal appearance Ranke was extraordinary. The historian of the world was not much over five feet in stature; but his head was "finely chiselled, with a great arched forehead, exceedingly mobile lips (covered only during the last few years of his life by a long white beard), and very bright eyes, with an incessantly inquiring and keenly interested look." A photograph which the writer has recently received from Berlin was taken in Ranke's extreme old age, but the historian looks younger and fresher than most men at the age of seventy. The face is plump and round; the hair abundant, the eyes bright, and the whole expression noble and majestic. He is pictured sitting in his *Schlafrock*, or gown, in which, like many German scholars, Ranke did his literary work, and in which he was sometimes forced, much against his will, to receive the then Crown Prince of Prussia, one of his most admiring friends.

In his old age Ranke continued to be the favorite of princes and scholars. The best and noblest came to see him in his simple, unpretentious home, in the second flat of Luisen Strasse, No. 24 A, in the old and quiet part of Berlin, north of Unter den Linden. Here, in the selfsame apartment, Ranke lived for more than forty years; in fact, from the time he was married. A most charming glimpse of Ranke at home, and apparently in good health, only three weeks before his death, is that given by Sophie Weisse, daughter of a German exile, and a resident of Eton, England. "Her father," said Ranke, humorously, when introducing her to his friends, "took a somewhat lively interest in the movement of 1848, and so left Berlin." When his English visitor remonstrated with him for working so hard, Ranke replied with charming *naïveté*: "Aus Faulheit, aus Faulheit; ich arbeite aus Faulheit; ich habe ja weiter nichts mehr zu thun!" And thus this cheery, charming,

wonderful old man worked on until the very last. He once said of his work: "It is my life; I live to work; as long as I live I shall work." When overtaken by his last illness, and forbidden by his physician to leave his bedroom, he persisted in working. His study table was brought near his bed and sofa, and he continued to dictate to his secretary. A fortnight before he died he rose from his sick-bed, without the knowledge of his attendant, and made his way into his library. Lost in thought, he stumbled and fell. This accident is thought to have hastened his death; but on that fatal day, as Ranke himself told his daughter, Frau von Kotze, his mind seemed as it were inspired with thoughts of such grandeur and sublimity as he had never before enjoyed in all his life. The morning after the accident he said to his secretary: "What a pity you were not here during the night! We should have completed the last chapter of the seventh volume; I had the whole in my head." But Ranke knew now that his world history was ended, and he calmly prepared for the world beyond. He died on the evening of the 23d of May, 1886. Of him Goethe's words are a fitting epitaph:—

"Edel war der Mensch  
Hülfreich und gut!  
Unermüdet schafft' er  
Das Nützliche, Rechte,  
War uns ein Vorbild  
Jener geahnten Wesen."

### Dr. Schaff on Ranke.

Dr. Schaff added some personal reminiscences of Ranke, and communicated the following characteristic anecdote: "Ranke met Thiers during the Franco-Prussian war in 1870, and was asked whom the Germans were fighting; whether Napoleon, the Republic, or the French nation. He replied with special emphasis to the last question, 'No.' 'Whom are you fighting, then?' asked the French statesman. 'Louis XIV.,' answered the German historian. Thiers was astonished at the long memory of the Germans."

A Reminiscence of Ranke.<sup>1</sup>

It was in February, 1886, that another American student of history and myself were granted the very rare privilege of a call upon Leopold von Ranke at his home in Berlin. Two months before he had celebrated his ninetieth birthday, but he still continued to work as if he feared the boundless future no more than the historical past. At the appointed hour we went to his lodgings on the third floor of a very plain apartment house in Luisen Strasse, and his house-keeper led us into the *salon*.

The room was long and quite elegantly furnished. A fine painting of a brilliant but unknown face at once attracted our attention. On the other side of the room there was a life-sized bronze bust, which was crowned with a wreath of laurel. It was only when we saw the words "Leopold von Ranke" on the base of the bust that we knew whom it and the painting represented, for in each case the face was beardless. Both must have been likenesses of him as he was twenty or thirty years ago. In this room there were only a few books, and these were fine editions and on tables; but we had noticed, as we entered the apartment, that even the sides of the corridors were lined with books.

In German fashion, we had remained standing about two minutes, when the door at the other end of the room opened, and a middle-aged man led in Ranke by the arm. Ranke took two or three short steps forward, quickly turned his head to the right and left, and then asked: "Wo sind die Herren?" We at once stepped up close to him, and he pleasantly extended his hand to one after the other.

We had expected to see a man looking very old and perhaps very feeble, but certainly not such a man as this. He was so bent and shrivelled that he was hardly larger than a slender boy of eight years. We all took seats very close together, he on our left so as to give us his right ear.

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<sup>1</sup> This reminiscence was first communicated orally to the author of the preceding sketch by Dr. F. A. Bancroft upon the latter's return from Europe. It appeared so interesting that the former requested Dr. Bancroft to write it out for a supplement to the memorial of Leopold von Ranke

The first few words we said were not understood, for he was quite deaf. It was only by speaking slowly and at about thrice the usual conversational tone that we could make ourselves heard. The pupil of his right eye seemed to be entirely destroyed. The left was considerably larger, badly inflamed, and watery. Blindness had almost overtaken him. His face was thin and his cheeks sunken. He wore a full beard, which, like his long hair, was white as snow and stood out straight. A long velvet gown faced with red silk covered nearly his entire body. Body? It seemed to be scarcely more than a feebly animated skeleton. When once or twice he wrapped his gown more closely about himself and leaned back in his chair, it seemed as if there were hardly as much as a skeleton there. Physically he appeared to be all but wasted—a pile of ashes still retaining a little warmth; but intellectually he seemed to be as vigorous and grand as he must have been forty years ago. Although his voice was weak, he spoke with ease and great fluency on at least a score of different subjects. He asked us to tell him all we could about George Bancroft, saying "We were very intimate friends when he was minister in Berlin. He often visited me here." He questioned us about the courses in the university and the number of Americans who were in attendance. Then he spoke eloquently of Germany's great progress in intellectual culture of late years, and said that Berlin University was especially wonderful, as it had drawn the greatest scholars to itself. He pronounced von Treitschke "*ein merkwürdiger Mensch*," and his "Prussian History" a great work. He explained that he himself had not lectured at the university since the outbreak of the war with France, at which time the university was left without students on account of the general enlistment. "Besides," he added with a smile, "I had already read long enough." He told us that of late years he had given up almost every thing but his "*Weltgeschichte*"; that if he should answer all letters and read the papers he would have no time for writing. He remarked that he had received a great many letters from

Americans asking for his autograph! He worked from about 10 A.M. to 2 P.M.; then, after a long walk and a rest, it was his habit to begin again after supper and work three or four hours. This last, he said, as if half in complaint and half in jest, he could no longer do except when he was willing to violate his physician's orders!

When one of us remarked that it was only now and then that even a young man could long endure such severe labor, he replied instantly in a proverb to the effect that age really meant strength and the ripening of man's faculties. Then, without a moment's pause, and in a gentle tone of voice, he quoted eight or ten verses of poetry on a similar sentiment.

He spoke with evident pleasure of the wide popularity of his histories, and said that he had heard that an edition of one of them had recently been brought out in far-away San Francisco. Naturally we were both curious to know his plans in regard to continuing the "*Weltgeschichte*." Fortunately for myself, I had heard but a few days previously that he was very sensitive in regard to any remark that seemed to indicate that the speaker thought that at most only a short period of life could remain to him. My friend, not being informed of this peculiarity, very politely addressed him this question in German: "Your Excellence, may I ask how many volumes you anticipate will be necessary to complete your great '*Weltgeschichte*'?" The grand little man straightened up with a jerk, and ejaculated with all his strength: "Ach was! Fragen Sie doch den *lieben Herrn Gott*!" We both gazed at him with astonishment, not knowing just what it would be best to do next. But in another second we saw that our situation was not serious. Although he was not strong enough for a really hearty laugh, he leaned back in his chair and his face showed signs of great mirth.

At the beginning of the call he had addressed us in English, which, to our amazement, he spoke perfectly, with the exception of a slight accent. But owing to his hardness of hearing and his not having heard English spoken for many years, it was difficult for us to make ourselves understood.



For this reason German was soon resorted to. He explained his fluency in English by the fact that one of his wives was an English lady, and very touchingly added that she had been of great assistance to him in his study of English affairs. At that time it was their custom to entertain a great many English and Americans.

As we were leaving, his housekeeper stepped into the corridor to bid us good-bye. She hastily told us that Ranke wanted to go out for a walk every day, and that he was just recovering from a severe cold taken while on a long walk in bad weather. "He wants to go walking to-day," she continued, "but the doctor has forbidden it. I have very hard work to keep him in if he once makes up his mind to go out. Ah, I tell you he has a *will* of his *own*! There is only one way I can keep him in when he sees that the sun is shining, and that is to say, 'Yes, but there is a *very* strong east wind.'"

She finished by adding that we were very fortunate, as it had been a long time since he had received any callers.

He died the following spring, as will be remembered, never having entirely recovered from the effects of the February cold. I have often wondered since if we were not the last strangers whom he ever received.

FREDERIC A. BANCROFT.

### Ranke and the Historical Commission of the Bavarian Academy of Sciences.

The influence of Leopold von Ranke survives not merely in his voluminous writings and in the methods of many historical seminaries conducted in his spirit, but also in the work of the Historical Commission, founded at his suggestion. The Historical Commission is a select body of specialists associated with the Bavarian Academy of Sciences. This latter organization was of earlier origin than the former, and had already fostered historical science. Like many learned academies, the Bavarian had its historical section. Under its direction historical documents had already been published before Ranke suggested a new departure.

In 1858, Ranke proposed to Maximilian II., the King of Bavaria, his former pupil, to widen the influence and promote the activity of the Bavarian Academy, by instituting a special Historical Commission, which should gradually associate with itself the leading historians of other German states, and direct its attention to German history, no longer in a provincial and local spirit, but in the largest national way. The king was pleased with the suggestion, and proceeded to appoint as the nucleus of the proposed Commission three members of the Bavarian Academy of Sciences. One of them, Heinrich von Sybel, then professor of history in the University at Munich, was made the secretary of the Commission. The presidency was reserved for Ranke.

Invitations were issued to the most eminent historians of Germany to meet in Munich, and to take counsel with the three appointed representatives of the Academy, with a view to organizing work for the Historical Commission. To this conference came Ranke and Pertz from Berlin, Droysen from Jena, Häusser from Heidelberg, Carl Hegel from Erlangen, and Wegele from Würzburg. Jacob Grimm, George Waitz, Lappenberg, Giesebrecht, and others soon joined by invitation this association of scholars.

It is very interesting to read, in the first number of Sybel's *Historische Zeitschrift* (the publication of which began shortly after the Munich conference), the views of Ranke, Pertz, and Droysen as to the historical work most desirable for the Commission to undertake. Indeed, the entire proceedings of the Commission, published as appendices to the early volumes of Sybel's magazine, are most instructive. They are not without suggestive value for the American Historical Association, if it should ever attempt to organize historical inquiries in this country.

At the Munich conference, Ranke defined the object of the proposed Commission as quite different from the general scientific work of academies, and as altogether distinct from the sphere of local or provincial historical societies. Nor was it the purpose of the Commission to generalize or centralize the work of other societies. The purpose

was rather to promote the general history of the whole country (*die allgemeine Geschichte des gesammten Vaterlandes*). Ranke proposed to avoid all rivalry or conflict with existing organizations and with great historical enterprises already in progress, such, for example, as that of the "*Monumenta Germaniæ Historica*," and that of the Royal Academy of Vienna. He then proceeded to suggest the following ways and means for the Historical Commission to promote its peculiar objects. He proposed :

1. A continuation of the historical work already initiated by the Bavarian Academy of Sciences.

2. A collection of the acts and proceedings of imperial diets, as already recommended to the king by Professor von Sybel.

3. The publication of such portions of the Bavarian archives as might prove of national interest.

4. The grouping of materials upon German history from the later mediæval chronicles.

5. Provision for the publication of historical researches which might not otherwise find their way into print.

6. The preparation of year-books of German history, from the earliest times to the modern era. For this grouping of material information in chronological sequence, Ranke recommended the employment of the younger historical scholars, who, if already trained properly, would thus find an opportunity not only to develop their talents, but also to do good and useful work. This practical suggestion was the revival for a national purpose of an idea early put into practice by Ranke, who trained some of the best seminary-students by entrusting to them the preparation of year-books relating to the Saxon dynasty of the old German Empire.

7. A further and most fruitful suggestion by Ranke was that there should be published under the auspices of the Commission a series of histories relating to the various sciences that had been fostered in Germany. This suggestion has since been realized in a magnificent collection of more than twenty volumes, published by the Commission at

royal expense. The first volume was Bluntschli's "History of Constitutional Law and Politics." The most recent which the present writer has seen is Wegele's "German Historiography," a history of German historical literature. Such a work was one of Ranke's favorite projects, and it was especially recommended by him at the Munich conference. Between the first and the latest of these special histories of science there is a great variety of valuable and, in some cases, absolutely pioneer works. Among others that are of special interest to historical students are Roscher's "History of Political Economy," Peschel's "History of Geography," and Zeller's "History of German Philosophy."

8. Last but not the least of the valuable suggestions by Ranke, enumerated here, was the idea that the Commission should undertake an encyclopædia of German biography. All the world knows what a magnificent series of volumes has resulted from that first proposal by Ranke. Some of the most wonderful sketches contained in that encyclopædia now embracing about thirty volumes, and still in active progress, are from Ranke's own pen, notably his life of Frederick the Great, and his memorial of Frederick William IV.

It is not the purpose of this sketch to give an account of the publications and researches of the Historical Commission, but merely to indicate that some<sup>1</sup> of the main lines of its activity were first suggested by Leopold von Ranke. The work of that organized society of historical specialists has been, in the main, simply a realization of Ranke's original ideas. Not only were the inception, the organization, and the preliminary direction of the Commission due to his influence, but the practical guidance of the work of the Commission remained for many years in his hands. He used to attend with great regularity the meetings of its members, and presided over their deliberations with the deepest interest and with unwearied devotion to the common cause. An annual visit to Munich, or to the place where the Com-

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<sup>1</sup> The idea of a collection of the chronicles of mediæval cities came from Georg Pertz.

mission met, was the only vacation which Ranke allowed himself in the later years of his life. He continued with the most extraordinary faithfulness these annual pilgrimages until compelled by the feebleness of old age and by the commands of his physician to discontinue the practice.

The great historian is dead, but the results of his energy live. The most vital forms of the man's permanent influence may be seen in the growing activity and widening usefulness of German historical seminaries and of that Historical Commission of German scholars into whom his own spirit was infused. That spirit was at once individual, national, and universal. The man was a patriot and a *Weltgeist*. Through his writings, Ranke's influence has gone out into the great world of historical thought and endeavor. In his institution of the Historical Commission he early represented the national idea in contradistinction to the provincial and local spirit in German history. It would be impossible to say how much that friendly association of Prussian and other German historians with a committee of the Bavarian Academy of Sciences in 1859 had to do with the gradual unification of sentiment in North and South Germany; but certain it is that the joint labors of university men upon *die allgemeine Geschichte des gesammten Vaterlandes* was no insignificant factor in the reconstruction of German unity in the consciousness of its educated men. The idea of national union was foreshadowed in many ways in the life and thought of German universities long before it took political shape, but Ranke's plan for promoting the general history of the whole country by an association of its representative historians should be regarded as the direct and necessary development of the original idea of Baron von Stein and Georg Pertz, who first began to lay anew the historical foundations of Germany in that wonderful collection of documentary materials called the "*Monumenta Germaniæ Historica*." Upon such documentary foundations Ranke and the Historical Commission began, with others, the slow upbuilding process of national unity, anticipating politics by the results of historical science.

### Bibliographical Notes on Leopold von Ranke.<sup>1</sup>

Ranke, *Sämmtliche Werke*, Leipzig, Duncker und Humboldt. Ranke, *Weltgeschichte*.

A new edition of Ranke is in prospect. English translations of many of Ranke's works have been published, notably of his "History of the Popes," "History of England," "History of Latin and Teutonic Nations." One volume of Ranke's "Universal History" was published in 1885 by Harper & Bros. and is thus easily accessible to any English reader. This great work marks the end, as the "History of Latin and Teutonic Nations," marks the beginning of Ranke's historical writing.

Arthur Winckler, *Leopold von Ranke, Lichtstrahlen aus seinen Werken gesammelt und mit einem Lebensriss herausgegeben von Arthur Winckler*. Berlin, 1885. A convenient little volume of Ranke's best sayings.

Macaulay's Review of Ranke's "History of the Popes." (See Essays.)

This was the first popular introduction of Ranke to English readers.

Lord Acton on "German Schools of History," *English Historical Review*, vol. I., No. 1.

This article contains a recent critical English estimate of Ranke, by one who is called the best-read man in England.

A. von Reumont, *Leopold von Ranke. Historisches Jahrbuch*, VII Band. 4 Heft, München, 1887.

This is a critical German review of Ranke by a fellow-worker in the Italian field of history and by one who knew him most intimately during his sojourn in Italy.

Heinrich von Sybel, *Gedächtnissrede auf Leopold von Ranke*, gehalten in der kgl. preussischen Akademie der Wissenschaften zu Berlin am 1 Juli, 1886, *Historische Zeitschrift*, 56 Band, 3 Heft.

This is a brief memorial sketch of Ranke by one of his most famous pupils, editor of the *Historische Zeitschrift*. In the same number Sybel published his sketch of George Waitz, another of Ranke's most distinguished pupils, author of the "Constitutional History of Germany." Waitz's death followed that of Ranke by only a few days.

Alfred Stern, *Gedächtnissrede auf Leopold von Ranke und Georg Waitz*, gehalten vor der Versammlung der allgemeinen geschichtsforschenden Gesellschaft der Schweiz, 10 August, 1886. *Jahrbuch für Schweizerische Geschichte*, Band XII., 1887.

Hans Prutz, *Leopold von Ranke, Ein Essay*. *Unsere Zeit*, August, 1886, pp. 145-163.

An appreciative and suggestive review of Ranke's methods by one of his pupils.

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<sup>1</sup> The writer offers these notes simply as a contribution towards a Ranke bibliography for American students of the German historian's writings. The notes have been collected from widely scattered sources and their preservation in printed form may prove serviceable. The writer is well aware that the bibliography is incomplete; he has given the best selection that he could find. He is indebted to the courtesy of Dr. Jastrow, of Berlin, and of Dr. Carl Geibel, of Duncker and Humboldt, Leipzig, for the use of certain valuable sketches of Ranke written by his own pupils, sketches that would not have been accessible to the writer on this side of the Atlantic but for the courtesy of these gentlemen.—H. B. A.

Dr. Jastrow, Leopold von Ranke. *Tägliche Rundschau, Unterhaltungs-Beilage*, 28 Mai, 1886.

A valuable memorial by Dr. Jastrow, published immediately after Ranke's funeral and correcting many of the popular errors concerning his life-work and early training. These corrections are based upon Ranke's own observations concerning articles about himself. The writer is under very special obligation to Dr. Jastrow for a copy of the above article.

Dr. H. Baerwald, Leopold von Ranke. Zu seinem 90 Geburtstag. *Frankfurter Zeitung*, 22 December, 1885.

This is an excellent, although rapid sketch of Ranke's life-work and of his influence upon German historians.

Constantin Rossler, Leopold von Ranke. *Preussische Jahrbücher*, Juli, 1886.

A philosophical analysis of Ranke's work and methods.

Georg Winter, Erinnerungen an Leopold von Ranke. *Nord und Süd*, August, 1886.

A graphic and instructive sketch of the old historian's methods of daily work, by one of his secretaries.

Sophie Weisse, Leopold von Ranke. Reminiscences of Berlin, 1884-6. *The Eclectic*, October, 1886.

A pleasing picture of Ranke at home by a daughter of a German revolutionist of 1848 who had sought shelter in England. This was probably his last English visitor, as Dr. F. A. Bancroft was probably his last American visitor.

Dr. Ludwig Oelsner, Leopold von Ranke. *Festvortrag*, 20 December, 1885, Frankfurt am Main.

Julian Schmidt, Leopold von Ranke, *Deutsche Rundschau*, 8 Mai, 1886.

This valuable article appeared just before Ranke's death, which occurred May 23, 1886. Julian Schmidt's reviews of Ranke's *Weltgeschichte* in the same magazine and in the *Preussische Jahrbücher*, e. g., January, 1882, are among the best.

Leopold von Ranke. *Die Nation*, May 29, 1886.

Leopold von Ranke. *Archivio Storico Italiano*. Tomo XIX. Dispensa 1. del 1887.

Frédéric-Guillaume IV. et Léopold de Ranke. Valbert. *Revue des deux Mondes*, 1 Sept., 1887.

Friedrich Heinrich Ranke. Jugenderinnerungen mit Blicken auf das spätere Leben. Stuttgart, 1886.

A charming picture of the youth and school-days of the Ranke brothers and of their life together at Frankfort-on-the-Oder, where Heinrich was pastor and Leopold was teacher in the gymnasium. An interesting touch is that describing the interest of the Ranke brothers in physical training under Father Jahn. This book, while naïve and unpretentious to a degree, shows what a wonderful talent, what a grasp of details, and what a genius for literary combination and description characterized the historian's brother. The book affords a delightful glimpse into German rural and domestic life. It is by far the most valuable original source of information concerning Ranke's early life.

Leopold von Ranke's Erinnerungen.

Leopold von Ranke an seinem neunzigsten Geburtstag, 21 December, 1885.

Ansprachen und Zuschriften, Gesammelt von Theodor Toeche, Als Manuscript Gedruckt, Berlin, 1886.

Dr. J. H. W. Stuckenberg, Ranke and his Method. *Andover Review*, February, 1887.

This article written by the pastor of the American church in Berlin is perhaps the most valuable upon Ranke which has appeared in America.

Leopoldo de Ranke y Jorge Waitz. *Revista de Ciencias Historicas Año*, 1887. No. 1, Tomo V.

Wegele, Deutsche Historiographie. Zu Leopold von Ranke's Heimgang, Als Manuscript gedruckt. Leipzig, 1887.

This pamphlet contains an account of the last days of Ranke by his son, Otto von Ranke, and also the eulogies pronounced at his funeral.

### The Ranke Library in America.

The following information respecting the transfer of the Ranke Library from Berlin to Syracuse University has been kindly furnished, at the request of the Secretary of the American Historical Association, by Professor Charles W. Bennett, of Garrett Biblical Institute, Evanston, Illinois, through whose mediation the Ranke Library was acquired for America :

"I will say that this library was secured after twelve years of effort. While Professor of History at Syracuse, I felt very keenly the meagreness and poverty of the library of a young and struggling college. In 1875, a gentleman furnished a very handsome sum of money, and sent me to Europe to buy books. At that time I visited most of the great book-marts of Europe, posting myself in the knowledge necessary for the intelligent book-buyer. It was then that I inquired about the extent and character of the Ranke collection ; and on my return I remarked to the gentleman who had sent me that after Ranke's death he must put this library in Syracuse. My interest in it was of course greatly intensified from the fact that I was Ranke's pupil from 1866 to 1869. The death of Ranke occurred May 23, 1886. I sailed from New York May 24 to spend the summer in the British Museum, but with the full purpose of purchasing the library, if possible. After correspondence with agents in Berlin, I became entirely dissatisfied with the German slowness, and July 2 found me in the library of Pastor Otto



von Ranke at Potsdam, negotiating for the library. I left him, with the assurance that in case the Prussian government did not purchase (this being almost the dying wish of the historian), I should have it. In turn I gave a pledge that it should be safely housed as an entirety in a room built specially for the purpose, and it should be known forever as the Ranke Library. So slowly did things move that not till April, 1887, did I receive a cablegram that the purchase had been made. Since that time my agents have been busy with the library, obeying directions as to its thorough completion in the way of perfecting partial serials, adding what has recently appeared, specially some lacking volumes of the '*Monumenta Germaniæ*,' the '*Corpus Gr. Inscr.*,' and '*Cor. Lat. Inscr.*,' the Transactions of the learned societies of Berlin, Vienna, Paris, London, Rome, Venice, etc., etc., the classification and binding of more than 30,000 pamphlets, the careful description and estimate of more than 400 manuscripts by Dr. Wiedermann, himself, as you are aware, a very respectable historian and Ranke's amanuensis or private secretary for about fifteen years, the binding of all unbound volumes, and rebinding and repair of dilapidated volumes, etc., etc. The work has been simply enormous. A recent letter informs me that the library is safely stored at Syracuse awaiting the completion of the library building. The size of the library cannot now be given. When I looked it over in the *Wohnung*, in Luisen Strasse, my agents and myself estimated it at 25,000 volumes. The private secretaries claimed that it was fully 35,000. My agents have since written me that they are utterly amazed at the treasures on treasures which they found on cleaning out the shelves and catch-alls of the old *Wohnung*, saying that it looked to them that it might reach 50,000 volumes. This is, of course, an exaggeration; yet the pamphlets alone have added between 3,000 and 5,000 volumes.

"It may be gratifying to the lovers of Ranke in America to know that I also secured the well-known portrait by Schrader, Ranke's study table, chair, inkstand, pens, etc., etc., also two oil paintings which Ranke had in his room for sixty

years, and one of which he insisted was an original Lucas Cranach. These were presented by the daughter; the desk, chair, etc., by the younger son, the *Hauptmann*.

"As to the value of the library for historic purposes, I have in my possession 148 pages of manuscript prepared by Dr. Wiedermann at my request, describing the most valuable part of the collection. I am preparing a paper upon these. I hardly know where it should be published. I wish it to appear where it will be most helpful to those directly interested in historic studies. Will you kindly give me your opinion as to this? I would say that Dr. Wiedermann regards the collection as among the best working private historical libraries of Europe. I will add that by the terms of the purchase Pastor Otto Von Ranke gave a bond that every thing pertaining to the library—books, pamphlets, fly-sheets, manuscripts, etc., etc., should be delivered without any reservation whatever. I was very careful on this point, and my agents have been diligent and faithful, I am sure, in carrying out my orders.

"GARRETT BIBLICAL INSTITUTE,  
"EVANSTON, ILLINOIS, May 7, 1888."

The concluding paper of the Monday evening session was by Dr. Kuno Francke, of Harvard University, on "The Parliamentary Experiment in Germany," a paper which provoked more lively discussion than any other which was read at the fourth annual meeting. The following is the text of the article presented by Dr. Francke:

### Dr. Francke's Paper: The Parliamentary Experiment in Germany.

There is no unconditionally best form of government. A constitution is not, like a mathematical formula, capable of being applied with equal result to different quantities. Its only proper test is its usefulness. It is useful if it represents, with more or less exactness, the political forces which constitute a nation's life.

Which are the forces that constitute the political structure of the German Empire?

It is a remarkable fact that in an age of democratic tendencies gaining ground all over the civilized world, the Germans should have developed a monarchical system which in unity of conception and broadness of influence is almost unparalleled in history. It is all the more remarkable, since the political views of the great German philosophers tend towards radicalism rather than royalism. But a nation's history is determined by facts, not by theories. And in the case of Germany, there is such an overwhelming weight of facts on the side of monarchy, and so strikingly little on the side of democracy, that it would be strange indeed if the latter had not been found too light in the scale. In the long list of great princes of the Hohenzollern dynasty there is scarcely one whose name would not recall sturdy perseverance, unflinching patriotism, and simple-minded loyalty, and there are not a few among them who have left the stamp of their genius and character impressed upon a whole generation. There never was a more intimate union between government and people than that which, since the days of Frederick the Great, has existed between the Prussian crown and the Prussian people. It is a union based upon the principle of public service. Service to the people has always been proclaimed by the Prussian kings as the fundamental obligation which their inherited dignity laid upon them, and in all decisive moments of its history the Prussian people has been ready to acknowledge the sacred mission of its ruling dynasty. It is the princes of the Hohenzollern house who have raised Prussia from an insignificant electorate to the position of uncontested leadership among the German states; who, first among the Continental powers, have established a broad and permanent system of local self-government; who have brought about first the commercial, then the political union of Germany; who have created the German Parliament.

Public services of such an extraordinary merit cannot remain without reward. In Germany, the result has been that the ablest and most energetic minds of the nation to-day are drawn into the ranks of monarchy, and that the weight of

public opinion lies at present with the numerous class of government officials. Those who consider democracy as the only rational form of government cannot but deplore this result. But it must be said that the official class in Germany is not a caste in the hateful sense of the word. It has its privileges. But these privileges are open to all; they may be attained by the son of a cobbler as well as by that of a railroad president. The only prerequisite is education. And is it altogether an irrational state of society in which the natural selection of the fittest is stimulated by a premium offered to education? Whatever may be the merits or demerits of German scholars, artists, and public men of the present day, can it not be said that their remarkable activity in almost every branch of research, production, and administration is, at least partly, due to the privileges held out to them by society?

I have spoken of the services rendered by the monarchy in shaping the political union and greatness of Germany. What has been the role of those who aimed at the same end on the basis of democratic principles? Far be it from me to doubt the sincerity of character or earnestness of purpose in the majority of those who in 1848 assembled at Frankfort-on-the-Main as the chosen representatives of the people to deliberate upon the building up of a new and united Germany. Their aspirations were as noble as only aspirations of doctrinaires can be. They were enthusiasts; they were filled with an unbounded belief in the justice of their cause, but, unfortunately, they had very little knowledge of the reality of things. It was a lack of common-sense when they expected the King of Prussia to accept from the hands of the assembly an imperial dignity which, by sharpening the rivalry between Prussia and Austria, could only tend towards dismemberment of the empire. They failed, nobly, to be sure, but not undeservedly. And, unfortunately, it must be added that their failure has not taught them a lesson. They do not seem to understand the signs of the time. Their whole political wisdom is derived from the war which more than two centuries ago was waged by the English

Parliament against the despotic and lawless dynasty of the Stuarts; and they have done their best to plunge our people into a similar strife with a government which in self-devotion and public-spiritedness falls not behind the greatest names in history. In 1862, when the antagonism between the two great German powers had become so acute as to make an open rupture appear only a question of time, the democracy, then forming the majority of the Prussian Diet, refused the government the means required for the needed reorganization of the army, thus provoking a conflict which but for the firm attitude of the ministry might have proved altogether disastrous to the future of the country. In 1866, when, after the victorious war with Austria, the government, in order to settle the intestine struggle, asked to be granted indemnity for the illegal measures into which it had been forced by the shortsightedness of the late Diet, the democratic votes were cast in the negative; and when, in the following year, through the constitution of the North German Confederation, the first vigorous attempt was made at establishing a powerful German Empire, it was again the sad distinction of the democratic party to remain in a purely negative policy. Prince Bismarck told a bitter truth when, some time ago, in commenting upon the new name of German Liberals, recently adopted by the party, he interpreted it as denoting something neither German nor liberal.

If the number of parties in the German Parliament were limited to the two prevailing tendencies of political life, the monarchical and the democratic, the question of political predominance would be comparatively easy. But such is not the case. The Monarchists as well as the Democrats are split up into a number of sections which, although usually working in the same line, may at times strongly oppose each other. The monarchist party comprises at present Conservatives and Imperialists, the main difference between them lying in a greater or smaller readiness to pursue a policy of centralization; the democratic party consists of the so-called German Liberals and the National Liberals, the latter differ-

ing from their German Liberal brethren mainly by a willingness to sacrifice party principle to the cause of national consolidation. But in addition to this sectarianism displayed within the limits of the two most prominent political creeds, there are several other parties which, although not sufficiently strong in themselves to play a leading role, yet, by granting or refusing assistance to either of the principal disputants, may exert a considerable influence. Such is the position of the Socialists, Alsace-Lorrainers, Poles, and Clericals. The Socialists, in spite of their working at present under the disadvantage of coercive legislation, are at every election gaining larger minorities, and may, in view of the general drift in Germany toward socialistic institutions, eventually become a power of the first order. The Alsace-Lorrainers and Poles, on the other hand, guided as they are each by their own national sentiments, will lose ground in the same measure as these sentiments are doomed to give way before the advance of Germanization. It is the Clericals who, since the establishment of the new empire, have been alternating with the National Liberals in holding the balance of power. Whenever there arose political questions of such a nature as to endanger the internal safety or the international position of the empire, the tide of public opinion turned towards the National Liberals; and whenever there seemed to be a danger that by overstraining the authority of the central government the liberty of the church might be encroached upon, the elections showed a decided increase of clerical votes.

Having thus reviewed the main forces of the political life in Germany, we observe that there does not exist a single parliamentary party which, either by virtue of services rendered to the national cause or by force of numerical compactness, was lifted far enough above the rest to claim the right of shaping the policy of the executive. Two very significant features of our constitution—perhaps the most significant ones—have sprung, as a natural consequence, from this state of things. The first is that the exclusive right of the executive power is reserved to the crown, as the only permanent and the most effective element of our political

organism; the ministers are servants of the crown, not of parliament. The second feature concerns the process of legislation. It is wrong to say—as *has* been said occasionally—that the German Parliament had no initiative. Certainly it has, and not infrequently it has made use of it. The Jesuit law, for instance, proceeded from the initiative of Parliament. But what the Parliament does not possess is the power of forcing its will upon the executive, just as little as the executive has the power of forcing its will upon Parliament. All legislation, therefore, in Germany is the product of a *compromise* between the executive and the deliberative bodies.

I do not mean to say that these forms of government and legislation are ideal. It is apparent that, in the hands of unscrupulous statesmen, they may be misused for either causing prolonged dead-locks or masking usurpation. But I do believe that they are the forms best adapted for a country where there is no natural foundation for party government, and I do believe that their inherent dangers can be avoided by a mutual understanding to employ them in good faith and for the sake of common welfare.

Let me try to show, in a few words, how the system of continual compromise between government and parliament has influenced the German legislation of the last seventeen years in the three most important questions of the day, the military, ecclesiastical, and social.

The establishment of German unity was brought about, if not caused, by an unprovoked attack upon our national existence. It was nothing short of a duty of self-preservation that the first German Parliament, which assembled after the war with France had come to an end, should try to protect the nation, at least in the immediate future, against the repetition of similar provocations. Consequently, a law was passed providing that until the year 1874 the peace effective of the German army should remain the same as it had been in 1870—that is to say, one per cent. of the population, as recorded by the census of 1867. In 1874 the political horizon of Europe had become by no means brighter, the

attitude of France was as hostile as ever, and the French army was now by 30,000 men superior to the German forces. It was, therefore, a sign of great moderation on the part of the German government, when in the military bill of 1874 they asked, not for an increase of the army, but simply for securing the present status by making, until further legislation, the draught of one per cent. of the population a permanent law. If this provision, known as the so-called Eternate, had been adopted, we would have but imitated the example of the French, with the only difference that in France the peace effective consists of one and one third instead of one per cent. of the population. But the German Parliament showed itself more apprehensive of its privileges being curtailed than the French Chamber of Deputies seems to have been. A coalition of Clericals, Liberals, and Socialists opposed the governmental bill by demanding an annual settlement of the peace effective. The government found itself confronted by the question: dissolution or compromise? It chose the latter, as suggested by the middle party of the National Liberals: a fixation of the peace effective on the basis of one per cent. of the population for a period of seven years. The Septennate was adopted as a diagonal between the Eternate and annual fixation.

You know that this compromise, after having been renewed in 1880 for another term of seven years, some months ago came near ending in a violent conflict. It has been said that this conflict was brought about through the exorbitant demands made by the government in its military bill of November last. But such is not the case. The government did not ask any thing which was not in conformity with the stipulations of previous compromises. It simply asked to establish this compromise for a third term and to carry it out to the full extent of its provisions. By the military law of 1880, the census of 1875, being the last census before that date, had been made the basis of settling the peace effective. Now the government asked to apply the same principle to the proposed renewal of the



military compromise—that is to say, to base it upon the census of 1885, as the last census taken before the date of the present bill. This implied an increase of the peace effective, to be sure, but only such an increase as was proportionate to the increase of the population which had taken place since the enactment of the last military law; by no means an increase in the percentage of men subject to military service. And could there be any serious doubt as to the advisability, nay, urgent necessity, of increasing the German army? Have the French ever shown the slightest disposition to accept in good faith the results of a war which they, and they alone, were responsible for? Have they not, during the past seventeen years, incessantly and systematically, prepared for what they call revenge, so that, in spite of the smaller population of France, the French army now outnumbers the German forces by nearly 100,000 men? And is there not on our eastern borders that monstrous colossus of the Russian Empire, always threatening to strike down upon us and to annihilate our whole civilization? These are sad reflections, especially sad for a peaceful people like the Germans, who desire nothing but to manage their own affairs in their own way; but, not to face this state of things, not to prepare for every emergency, would be simply an act of national self-destruction.

The majority of the last Reichstag, again a coalition of Clericals, Liberals, and some minor parties, committed this attempt at political suicide. To them there seemed to exist no threatening danger; they made light of Count von Moltke's warning that a refusal of the military bill would make war certain; what they dreaded most was to lose the chance for picking a quarrel with the government. First they refused point-blank any increase of the army. Then, by an outburst of popular indignation convinced of the hopelessness of this course, they changed front and declared themselves ready to grant the demanded increase on condition of changing the septennate into a triennate, that is to say, of fixing the peace effective for three, instead of seven,

years. The unfairness of this condition was apparent. Where, as in England or in this country, the whole body of regular troops is constantly kept under arms, it does not matter much whether the number of these forces is regulated for shorter or longer periods. But in a country where the strength and formation, not only of the active army but at the same time of the reserve and *landwehr*, depend upon the number of the annual levy, the very organization of the military system would be deranged by encroaching upon the stability of this levy. Besides, the septennate had parliamentary tradition in its favor; it was the result of a compromise between government and parliament; it had been in existence for fourteen years; it had worked well; nothing but wilfulness could clamor for its abolition.

So it was perfectly evident that the opposition meant to force the government into an open rupture. The government did not hesitate to take up the gauntlet. On the 14th of January the Reichstag was dissolved. Seven weeks later the National Liberal Conservative majority of the new assembly passed the septennate bill without an amendment. The military compromise had once more received the sanction of the people.

The second important question, which, through a series of compromises between government and parliament, has been brought nearer its solution, is the regulation of the border-line between the State and the Catholic Church. The declaration of papal infallibility in 1870, although in itself a merely ecclesiastical act, was bound to change the relation of the Catholic Church at least to those countries where the priests, being paid by the government, are as well servants of the State as of the Church. These countries could not but feel endangered by the absolute programme of the infallible papacy; in these countries the line had to be drawn as distinctly as possible between the priest as priest and the priest as government official. In Prussia this attempt was made through the famous May laws of the year 1873. The May laws confined the disciplinary power of the church authorities to church matters; they placed the edu-

cation of the clergy practically in the hands of state authorities; they obliged the ecclesiastical superiors to inform the government of intended appointments, and reserved to the government the right of vetoing such appointments; they finally established a royal court of appeal for all ecclesiastical matters. These laws were carried in the Prussian Diet by an overwhelming liberal-conservative majority; they were supported by a strong no-popery movement throughout Germany. It was the time when the appearance of the so-called Old Catholic party revived the hopes of seeing the work of the Reformation taken up anew; when Döllinger, the Nestor of Germany's Catholic scholars, denounced the Jesuitic tendencies of the Roman church, and, applauded by Catholic Munich and all Germany, defied papal excommunication; when in Bismarck there appeared to have arisen another Luther; when it seemed as though the political union of Germany was to be followed by the establishment of a national church and the extinction of all religious strife. Such hopes have been disappointed since, and perhaps it would be better had they never been entertained.

From the outset the Catholic bishops declared the May laws a trespass upon the divine rights of the Church, nay, treated them as non-existent. The two most essential provisions of these laws concerned the education and the appointment of priests. They obliged candidates of the ministry to present a certificate of having gone through the curriculum of a German university; not one student of Catholic theology has complied with this provision. They obliged the bishops to inform the State authorities of intended appointments: not one Catholic bishop has submitted to this demand. The consequence was that now the State, that is, the government, supported by a liberal majority in the Prussian Diet as well as in the German Parliament, proceeded to break the opposition of the clergy by passing a number of coercive laws. The state of things which ensued was deplorable: closing of theological seminaries, refusal of salaries to priests appointed without the consent of

the state, conviction and deposition of reluctant bishops and priests, abolition of monasteries and religious orders, prohibition of processions and other ceremonies in which priests not acknowledged by the state might take a part, suppression of all divine service in no less than 1,400 parishes. Such a condition of things could not last ; it endangered the very roots of social order and Christian civilization. It was absolutely necessary that Church and State should arrive at terms by which they might live together, if not in friendly relations, at least in the attitude of mutual respect.

In the meanwhile the clerical party had been continually on the increase, and was continually urging the repeal of the May laws. A part of the conservatives had also become alarmed by the disastrous results of the ecclesiastical legislation. In 1879 the clerical-conservative coalition had practically control of both the Prussian Diet and the German Parliament. If parliamentary majority ruled in Germany, a complete reaction would now have taken place ; the May laws would have been abolished, every supervision of the Church by the State would have been suspended. Since, as I said before, the priests in Germany are at the same time government officials, a reaction of this kind would have meant not freedom of the Church from the State, but submission of the State to the Church. Happily, the prerogative of the crown made such a course an impossibility. The only way of arriving at a satisfactory settlement lay in the line of a compromise between the government and what now appeared as the majority of the legislative bodies, and it is this way which, since 1879, has been entered upon. Persistently as the government refused to accede to a wholesale repeal of the May laws, incessantly demanded by the clerical-conservative majority, as ready it showed itself, on the other hand, to eliminate from them all provisions of a distinctly aggressive character. Three times, in 1880, 1882, and 1883, discretionary powers in the application of the May laws were granted to the government by its half-reluctant, half-triumphant opponents, and the use made of these powers went far towards preparing a final reconciliation. Several of

the deposed bishops were recalled, the jurisdiction of the royal court for ecclesiastical matters was limited, the nomination of substitutes to vacant parishes was facilitated, the interference of state authorities in theological education was restricted. All these concessions, however, were made with the understanding that the Church, in return, would definitely recognize a general supervision of its educational institutions by the State, and would submit ecclesiastical appointments to the governmental veto. And this, in fact, has been the outcome of the long and memorable struggle. In the ecclesiastical bill, finally adopted by the Prussian Diet on the 27 of last April, all other provisions of the May laws were abandoned, but the sovereignty of the State in supervision of clerical education and appointment has been successfully maintained. A compromise has been concluded, which is equally creditable to either of the combatant parties, and from which we may justly hope a sincere and lasting peace.

I shall not attempt to enter into any discussion of economic or social questions. Let me only say that on this ground, also, the legislation of the German Empire has been following the line of continual compromises between government and Parliament. Two laws of the highest importance show this most conclusively: the indirect taxation law and the law upon insurance of workmen against accidents.

Until the year 1879 the German Empire had no financial independence. Its own resources, mainly derived from customs duties, the surplus of the telegraph and postal service, and the interests of the imperial invalid fund, were not sufficient to cover its expenses; the annual deficit had to be made up by contributions from the various States. It was generally acknowledged that these contributions, by fostering centrifugal tendencies, were a serious check to the process of national consolidation, and that they would best be superseded by raising the indirect taxes of the Empire, especially those upon brandy and tobacco. But as to the mode of fixing these taxes, there was a difference of opinion. The government wished to have them fixed, as is the case

in most countries, by a law not limited to time; the parliamentary opposition, as they had been insisting upon annual regulations of the peace effective of the army, so, also, they demanded an annual determination of the indirect taxes. The final outcome was a very curious compromise, which throws a significant light upon the strength of sectarian feeling even in the representative bodies of our national unity. The determination by permanent law was adopted, but at the same time it was provided that, whenever the income of the new taxes was to exceed the sum of one hundred and thirty million marks—a sum corresponding approximately to the annual deficit of the Empire—the surplus should not go into the federal treasury, but should be divided among the several States.

The insurance of workingmen against accidents is a part of that memorable legislation, initiated by the German government to attack the problem of reconstructing the social foundations of the modern State. The objections raised against this bill came from two sides; the Clericals, being opposed to all measures tending towards centralization, condemned the *national* character of the bill, and proposed to leave the insurance legislation to the individual States; the Liberals rejected the proposed engagement of the government itself in the insurance by defraying one-third of the premiums. The law, which, as a middle line between these conflicting tendencies finally was adopted, maintains the national and abandons the governmental character of the insurance, by placing it upon the basis of trade unions. The unions consist of all employers within the same industry throughout the German Empire. These unions undertake the insurance of all their employés with an income of less than 2,000 marks; the scale of contributions of the different members being determined by the wages of the employed laborers. Committees of workingmen, courts of arbitration, and, as a court of appeal, an imperial board of insurance commissioners, regulate the working of this most remarkable institution.

In one of his last speeches Prince Bismarck half-grimly,

half-humorously observed, he hoped for a time when he himself and his present opponents had gone. Then the German people would enjoy peace. I hope this millennium will not come too soon. In spite of all party strife and tumult, we have made, within the last seventeen years, enormous strides towards a consolidation of our national existence, and, as the history of the legislative compromises shows, the very combat has taught our people to respect political opponents, to sacrifice party principles to the welfare of the country, and to seek the strength of one's own position, not in the accumulation of rights, but in the exercise of duties.

#### MORNING SESSION.

TUESDAY, *May 24, 1887.*

The American Historical Association convened for its second morning session at 10 o'clock on Tuesday, President Winsor in the chair. The first paper of the day was by John Martin Vincent, of the Johns Hopkins University, and was entitled: "A Study in Swiss History." The text follows:

#### **Mr. Vincent's Paper on Swiss History.**

Following up that sentimental interest which all Americans naturally feel in a sister republic, the writer was led, some years ago, while at a foreign university, to begin more extended studies of the history of Switzerland, with eventual publication in view. It is no longer necessary to rise to the "Defence of the Constitution," and exhibit to timorous countrymen the workings of successful republicanism, as did President John Adams so admirably, when our constitution was new; but it appeared to the author that the histories of Switzerland, written by foreigners, were for the most part undertaken by persons educated in a different school of political ideas, and hence unable to fully appreciate the aspirations of the Swiss people.

It seemed, therefore, worth while to attempt a history of

the republic, which, other things being equal, might combine the advantages of being written from a republican standpoint, as well as by a disinterested spectator.

Brief residences in Switzerland confirmed the idea, and studies in this direction have since had at least a share of attention.

Meanwhile, at the suggestion and under the encouragement of Prof. Herbert B. Adams, a study of the present institutions of the country was also begun, with the view of comparing them with our own, under some such title as "Civil Government in Switzerland compared with that in the United States." It was hoped that an excuse for a small work of this description might be found in its usefulness to students of institutions.

Unique facilities for this work, considering the wide separation of the countries, are afforded by the library of the Johns Hopkins University, which, fortunately, possesses the books and many of the papers of the late Prof. Bluntschli, of international fame, who was not only a native of Switzerland, but an historian of its laws and institutions. To this the Swiss Government has of late generously added a large collection of documents, historical, administrative, and statistical, relating to Federal affairs since 1848.

With these materials it is possible at least to appreciate the work of native specialists.

The object of this paper is to present a brief historical explanation of one or two characteristic Swiss political ideas, yet to be found in their constitutional laws.

Many familiar facts in Swiss history will be repeated without further apology, for the purpose of showing their bearing upon these topics, and occasional references will be made to the experiences through which the United States have passed during the solution of similar problems.

The present Swiss Confederation is composed of twenty-two states, which call themselves "sovereign cantons." The Federal constitution enumerates its members by the same title; each of the state constitutions says, in effect: "This, under Federal supremacy, is a sovereign state," and each



declares that the sovereignty within the state rests in the people as a whole.<sup>1</sup>

This careful definition of the nature of the state, this striking emphasis upon isolation and individuality, is not a modern product of the study of the rights of man, but a phenomenon whose roots run deep into the history of Switzerland, and the nature of the Swiss man. Let us notice briefly the sources of what may be called this centrifugal force, and some reasons for its continuity.

Although Switzerland now employs three official languages, and at least four distinct tongues are spoken in various parts, it need hardly be said that the history of its government is a history of Teutonic institutions. German communities made the first confederation; Germans were the material with which it was for centuries almost exclusively increased. All other nationalities now included were, until ninety years ago, simply allies of the League, or still lower, subjects of the same. Hence the sources of governmental ideas, the political instincts of the race, are to be sought, not in many directions, but chiefly in that branch of the German stock which, at the opening of the fifth century, took possession of the country, never to be dislodged. As the Burgundians became Frenchmen in language and sympathies, we must turn to the Alamanni, and we find in that people certain traits conspicuously emphasized.

Ammianus Marcellinus, writing in the second half of the fourth century, states that the Alamanni were ruled by fourteen different kings, fully independent of each other, and connected by no common government. Occasionally, however, and for warlike purposes, they joined together under one of these kings, among whom there appear to have been different degrees of power or influence. At the end of the war, and an instance is given where even at the close of a battle, the authority of this general chieftain, like that of the English Bretwalda, expired, and the frail confederation fell asunder with the accomplishment of its end.

Nor should we infer that these kings were despots, for

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<sup>1</sup> Sammlung der Bundes- und Kantonsverfassungen, 1880.

Ammianus relates that at the battle of Strassburg, about 378, the common soldiery demanded that the leaders dismount so they should not escape by flight in case of disaster. Chlodomar, who was for the time commander-in-chief, leaped from his horse and the others followed.<sup>1</sup>

Such were the Alamanni before the Great Migration. Characteristic, also, was the conquest and settlement of Helvetia. A portion of these kings came with their followers over the Rhine into the northern part of the province, and each tribe apparently selected a place for itself.

But not only was there a separation of the clans, but there would seem to have been a general segregation of individuals. With true German instinct, the Alamanni avoided, if they did not destroy, the Roman cities with their contracted and hateful walls. They betook themselves with flocks and herds into the open country, and settled in small numbers in manors, hamlets, or villages.

Manors, or Höfe, were property of leading free men, who, selecting suitable localities, quartered about themselves only their slaves and tenants. These wrought out for them a hard, half-civilized, but independent existence. Here again the instinct of isolation exhibited its power. It has been estimated from studies of the names of places that in Canton Zürich alone over three thousand manors were settled in early times, against only about one hundred hamlets and some twenty villages.<sup>2</sup>

I pass over the intervening history to the formation of the first Confederation. During the eight hundred years which have elapsed, the valleys of Schwyz, Uri, and Unterwalden have crystallized into feudal dependences with different conditions of personal freedom among the inhabitants and with different external allegiances.

Fragments only of the ancient unqualified freedom remained. Power to make law there was little beyond what concerned their common pastures.<sup>3</sup> Popular rights found

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<sup>1</sup> Wietersheim: "*Gesch. der Völkerwanderung*," III., 379 f.

<sup>2</sup> Meyer: "*Die Ortsnamen des Kantons Zürich*."

<sup>3</sup> Dierauer: "*Geschichte*," I., 84.

expression in the application of law, in attendance at court, and in sitting upon juries in local trials. But though they might not elect their own judges, upon one thing they were agreed: they would endure no judge or governor who would not respect their local customs and traditional usages. In defence of this principle the three valleys, in extent less than forty miles square, and thinly inhabited, defied the armies of Austria. Their external overlordships were distinctly acknowledged, but, say the Articles of Confederation, "We have also, in general assembly and with unanimous consent, agreed, determined, and ordained that in the aforesaid valleys we will in no wise accept any judge who shall have bought this office for money or for any price whatever, nor one who is not a resident or fellow-countryman."<sup>1</sup> They further agreed to settle difficulties between the cantons by arbitration, and if one repudiated the sentence of the referees the other states should compel obedience. There was to be also a common outlawry of criminals which should include all three valleys, but no common tribunal.

After 1309 the three cantons stand on the same level of imperial freedom. The charters of Henry VII. guarantee that "in no matter, or case at law, shall you be cited before the court of a temporal judge, with exception of the court of our majesty, outside the limits of the aforesaid valleys." This was the coveted *Fus non evocando*.<sup>2</sup>

With this privilege the measure of local freedom was full. The valleys of the League knew henceforth no master but a distant and preoccupied empire.

One by one other cantons were added to the Confederation. In 1332, Luzern—but in the language of the agreement, they said: "We reserve to our city and the council all their jurisdictions, and their customs in respect to citizens as well as strangers, as they have been handed down from ancient times." Likewise Uri, Schwyz, and Unterwalden: "We reserve also for ourselves, each forest canton in particular,

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<sup>1</sup> "Amtliche Sammlung der Eidgenössischen Abschiede," I., p. 241.

<sup>2</sup> Kopp: "Urkunden," 103.

within its landmark and borders, its jurisdictions and good customs, as handed down from ancient times.”<sup>1</sup>

Twenty years later Zürich became a member, with the additional provision that in case the Burgomaster or Council of the city was threatened, the forest states should assist them to maintain their offices. But this was to occur when requested under the seal of either the Burgomaster or the Council, and furthermore, “let it be known especially that we have expressly established and required, in respect to all who are in this League, that every city, every land, every village, every manor, which belongs to any one who is in this League, shall continue undiminished in their jurisdictions, in their privileges, in their charters of freedom, in their laws, and in their good customs as they have hitherto conducted and brought them down, that no one shall injure or hinder another therein.”<sup>2</sup>

Within the next three years Glarus, Zug, and Bern were admitted to the Confederation under similar conditions, and, as thus constituted, the League of Eight closed its doors for a century and a quarter.<sup>3</sup>

It was an alliance of states for the purpose of warding off danger from without and maintaining peace and friendship within. What were the events which clustered about this League and the constitutional traditions which passed on with it to following generations of Swiss people?

In 1386 and 1388 the famous battles of Sempach and Näfels decided, although they did not bring to an end, the hundred years’ struggle for independence. But at the same time the states which thus covered themselves with glory were united by an alliance in which only three were directly connected with all the others.<sup>4</sup>

It was after the manner of telephone service in which the three original cantons acted as the central exchange. When the later states wished the help of the League they called on the forest cantons, and the latter summoned the rest.

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<sup>1</sup> “Eidg. Abschiede,” I., p. 256.      <sup>2</sup> “Eidg. Abschiede,” I., 260.

<sup>3</sup> “Eidg. Abschiede,” I., pp. 273, 275, 285.

<sup>4</sup> Note the provisions for military assistance in charters cited.

There were some cross-connections, but in general the touch was indirect. So loose was the tie, that in this same battle of Sempach Bern refused to co-operate, though she repented later.

Power to compel obedience to the Confederation in external matters was authorized but invalid.

Fifty years later civil war broke out, and in 1450 was brought to a close in such a way that the question of a state's right to form foreign alliances found a solution. The balance of the League conquered Zürich and Austria combined. The Confederation was much strengthened externally thereby, but the occasion left no mark upon the constitution. Two great mutual agreements were enacted in the fourteenth century. In 1370 the so-called *Pfaffenbrief* declares that the confederates will endure no spiritual courts except in spiritual matters or marriage, and private feud is prohibited without permission of authorities. But the execution of this law is left to the place where the culprit resides.<sup>1</sup>

In 1393 the *Sempacherbrief*, a general military ordinance was adopted, in which they endeavored to maintain better discipline in battle, regulate plundering, and in some measure temper the savagery of war,—in reality a remarkable monument in military history,—but that same document commands that cowards, deserters, or other breakers of its provisions, shall be tried by their own land or city, and if “one be found guilty before them to whom he belongs, and whose duty it is to judge, he shall forfeit his life and goods to them to whom he belongs and to *no one else*.”<sup>2</sup> In other words, federal law, but state trial and execution, even in national treason.

Between 1474 and 1477 the Swiss destroyed the most ambitious monarch of Europe, Charles the Bold; won the world-famous battles of Grandson, Murten, and Nancy; and annihilated the flower of chivalry; yet the general constitution of the country was the same disjointed artifice which had been framed for the League of Eight one hundred and thirty years before, strengthened only by usage and common recollections.

<sup>1</sup> “Eidg. Abschiede,” p. 301.

<sup>2</sup> “Eidg. Abschiede,” I., 327.

Soon after this the states were increased to ten, in an agreement in which all are parties, but the relations of the original eight are unchanged.<sup>1</sup> This Confederation put down the Suabian League, practically severed Switzerland from the empire, and, in fact, for fifty years after the Burgundian war held the balance of power in Europe.

Three more cantons were taken in, Basel, Schaffhausen, and Appenzell. These were required to give aid when the Confederation carried on war against a common enemy, but in case of strife among the other cantons there was the remarkable provision that these three states should try to settle matters peaceably, and in case they failed and it came to war, they should *sit still*, let the others fight it out, and aid no party.<sup>2</sup>

This Confederation of thirteen states endured without change of actual members two hundred and eighty-five years.

National affairs were discussed in general diets, as, in fact, they had been from the beginning, but they were diets which lacked the very essentials of republican government—majority rule and power of execution.

Each canton sent two delegates but possessed only one vote. Resolutions passed, not by the consent of the majority of the states, nor even on the vote of nine states, as in our old Confederation, but only by unanimous agreement. Not only this, but delegates were expected to have the special instructions of the home government before the final vote. If these were not given in advance it was usual to defer consideration to an adjourned meeting, in order to allow consultation.<sup>3</sup> Having enacted a law, there was no power to enforce obedience. One state could, in the first place, block the most ardent desires of the whole Confederation, and even when unanimous consent was given, it often happened that one or more cantons failed to obey. Certain laws, for instance those against

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<sup>1</sup> Freiburg and Solothurn, 1481. "Eidg. Abschiede," III., pt. I., p. 698.

<sup>2</sup> "Eidg. Abschiede," III., 2, pp. 1291, 1297, 1361.

<sup>3</sup> Bluntschli: "Gesch. d. Eidg. Bundesrechtes," I., 395 f.

private foreign pensions and enlistment, though desired by all the governments, found no general obedience. In fact, it came finally to pass that the diets could make few unanimous resolutions other than in regard to the management of their common property.<sup>1</sup>

The Confederation grew weaker as it grew older. The states did as they pleased, and the national spirit decayed, but it was not altogether the natural outcome of cantonal sovereignty. Let us note a few things which caused this principle to be exaggerated, and then, as it were, petrified in national politics.

In a paper read before this Association last year upon the "State-Rights Theory in American Politics," it was stated that at a certain period of our history the question of pure state rights became overshadowed by larger questions of unequal sectional equilibrium.<sup>2</sup>

The same phenomenon appears in the Swiss republic, and the wedge of sectional separation was entered when cities began to be joined to a Confederation of pastoral states. Lucerne and Zürich were allies, vitally necessary to the maintenance of the League, but they brought in with them germs of division which were unfortunately allowed to bear fruit. The jealousies of democratic and aristocratic cantons are too familiar to call for extended details.

At the beginning there was no question as to the equality of all the states, but the more rapid enlightenment of the cities, their superior wealth and intelligence, soon gave them a directing influence. The country states saw the city states bent on widening their borders, buying here, conquering there, attaining more respect in foreign eyes than themselves, and exhibiting ambition beyond their own simple desires. They feared the towns would some day seek to annex them. Nor was this distrust entirely unwarranted, for the aristocratic cities invariably treated their country possessions less favorably than the municipal.

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<sup>1</sup> Blumer: "Bundesstaatsrecht," I., 16.

<sup>2</sup> Pres. Welling of Columbian University. See "Secretary's Report," Papers Amer. Hist. Assoc., vol. II., 72.

Consequently the democratic states often resisted good national policy for fear of giving greater influence to the cities. This was why the League of Eight shut its doors for a century and a quarter. So long as the country cantons had five votes, counting the mixed district Zug, they refused to admit Freiburg and Solothurn, which would have strengthened the hands of the cities.

Secondly, the principle of state equality, not necessarily state rights, came painfully near wrecking the republic at the close of the Burgundian war. It had up to that time been customary to divide all conquests and booty of war equally among all the cantons engaged. Territory was not parted, but governed in company, each state taking its turn at furnishing officers, and all sharing in the surplus revenues. This equal division, however, met with the increasing protest of the larger cantons, until, at the time the immense spoils of Charles the Bold were brought in, ill-feeling rose to a quarrel. On the one side it was claimed by the forest cantons that Bern had absorbed most of the territory for which all had fought, and on the other, by the larger states, that it was not fair that a little canton like Uri, for instance, should have an equal share with Bern, which furnished three times as many soldiers. Neither side would give way. Diet after diet failed to effect a reconciliation. Mutual reprisals and rumors of secret agreements added fuel to the flame. Civil war was about to burst out, when the words of one man, a pious recluse, Nicholas von der Flüe, laid the storm. He advised that lands be divided equally among the states, but movable spoils according to the number of men furnished for the war.<sup>1</sup> All parties accepted this very just compromise. The precious principle of state equality had been respected, and also there had been observed, for the first time in the history of the republic, the principle of numerical representation. But there the latter idea halted, and for three hundred years found no wider application. To the mountaineers, the founders of the Confederation, it seemed

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<sup>1</sup> The so-called Stanzer Verkommniss, 1481. "Eidg. Abschiede," III., pt. I., 696.



humiliating to have smaller voice in its affairs, and further compromise ceased.

Another separating influence was generated by the mercenary service. After the terrible defeat at Marignano, the Swiss refused, as a national undertaking, to fight any more for the benefit of neighboring powers, but would furnish recruits for their armies.<sup>1</sup> These were raised by the cantonal governments, and remained under their general orders in the field. Consequently, all the neighboring powers found it to their interest to create parties in these governments. They sowed pensions and dissensions right and left, and by thus working on the greed of men, fostered separation of interests among states none too strongly attached before. The native agents assisted them in this by creating rather than removing obstacles, in order that more money might be passed through their sticky hands.

When reform was attempted the mountain districts refused to accede, and insisted on their state rights.

Religious dissensions, also, following the Reformation, tore the frail Confederation into shreds, set region against region, canton against canton, and parted solid states.

The aggressiveness of both parties, upheld by the fervor of faith, caused suspicion and fear to arise between neighbors who had every reason for unity. Each canton clung jealously to its own individuality and ancient customs for fear that religious fanaticism would blot them out. Every now and then the republic would be split up into smaller confederations for the purpose of maintaining the rights of state sovereignty. Thus by these sectional strifes the idea of isolation was handed on, gaining strength as it went and becoming more and more a political instinct of the Swiss people.

In short, what the foregoing has attempted to convey is this, that the whole political education of that nation, from earliest times down to 1798, taught that states should manage no local affairs but their own.

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<sup>1</sup> See, for example, the treaty with Francis I., 1521. "*Eidg. Abschiede*," IV., pt. I., 1491.

In time of danger the sentiment of union, the necessity of mutual dependence warded off destruction, but the bonds of the Confederacy, like the ropes which bind adventurous travellers on Swiss mountain tops, were laid aside upon the level ground of local politics.

The nation was bound together by a glorious chain of memories, traditions, heroisms, sacrifices, but in the very battles for existence every man fought under the banner of his own canton, followed the regiment of his own district, kept step with the company of his own hamlet, or died beside his brother, son, or friend. This was the ancient German instinct and this the language of the war ordinances of the republic: "Let every man stand by the flag of his own land or city, after the manner of the fathers."

It came to pass that baser motives also weakened national union till it hung by a single thread. Our own republic was nearly divided on a question of human property. The Swiss Confederation, on the contrary, was for a long time almost solely held together by the common ownership of subjects. The regulation and division of profits of territories held in partnership, where the people, though not slaves, were unequivocally subjects, came to furnish almost exclusive occupation for the federal diets. It was for the interest of the states to remain in the partnership, equally their interest to be individual, to enjoy a share, and to admit no more states to the union that this share be not diminished.

Towards the end of the 18th century the evils of this lack of union were recognized on all sides.

In 1798 the remedy arrived. A consultation of French doctors sat upon the case of Switzerland. Having rejuvenated France, the Paris revolutionists proposed to reform the rest of the world. Switzerland must be made a unit state, and so it was. The ancient cantons, cradled in independence and grown old in isolation, were suddenly transformed into departments of a single government and called the Helvetic Republic.<sup>1</sup>

Not only that, but the forest states, proud originators of

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<sup>1</sup> Constitution in Bluntschli: "*Bundesrecht*," II., 305.

the Confederation, were lumped into one department, with the avowed purpose of gerrymandering out of power any democratic opposition to the new order of things. Bern, the greatest of the aristocratic cantons, was divided into four, and the subject territories erected into departments having equal rights with the others, much to their own delight, but to the great chagrin of their former masters. The state was to be ruled by a governor, a directory, a senate, and a great council, and the departments by a host of prefects, sub-prefects and officers never before seen in Switzerland, and all of them with unheard-of salaries. Swiss citizens were compelled to fight in French wars, in which they had no interest, and if they objected to this kind of government, French bayonets stood ready to convince them of its excellence.

The public moneys, of which some of the cantons had a huge store, were squandered, state property alienated, and a debt of 20,000,000 francs saddled upon the country. The Swiss grew tired of the new régime, and after a five years' miserable existence, it was chased across the border.

Napoleon Bonaparte by the Act of Mediation restored a large measure of the autonomy of the cantons, but left a central government much superior to that before the revolution.<sup>1</sup> Yet this improvement was accompanied by more French soldiers, by a forced dependence upon France in commercial as well as political matters, and by loss of territory at strong strategic points, which Napoleon thought would be more useful to him than to the Swiss. The new constitution contained a definition of powers found in the American Articles of Confederation, but discarded by the makers as well as by the amenders of our present organic law: "The cantons enjoy all the powers which are not *expressly* delegated to the Federal authority."<sup>2</sup> Yet under the dragonlike protection of France this was not an unmixed en-

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<sup>1</sup> Bluntschli: "Bundesrecht," II., 322.

<sup>2</sup> Acte de Mediation, Chap. XX., Tit. 12. Compare with Amend. X., U. S. Const.

joyment, and such unity had little to recommend it to the patriotic citizen.

The fall of Napoleon was the signal for reaction. The greater cantons demanded a return to the old status and their ante-revolutionary supremacy. The relapse would have been worse had it not been for the allied powers, who would guarantee neutrality only on condition that the new cantons be maintained and free.<sup>1</sup>

The period from 1815 to 1848 was one of gradual political enlightenment, but the structure upon which improvement was made began with the words, "The twenty-two sovereign cantons of Switzerland," and finished its articles without an expression containing "Federal authority."<sup>2</sup>

Article 8 says: "The diet undertakes the management, according to the regulations of the treaty of Confederation, of such matters as are laid upon it by the sovereign States of the League. It consists of the delegates of the twenty-two cantons who vote according to their instructions. Every canton has one vote which shall be made known by one delegate." They had, however, advanced to majority rule, and two-thirds could declare war.

The steps toward closer union during this period were many, but were the result of political renaissance taking place first in the cantons themselves, a realization of nineteenth-century necessities, and took the form of treaties among the states rather than of amendments to the general constitution.

Concordats,<sup>3</sup> on the laws of commerce, postal service, validity of marriage, and other subjects, showed the value of more centralization and wanted the people to its presence. But it needed the fright of one more danger to compress the republic into its present form. The Catholic secession of 1847-48 came so near to success, that the people gladly gave more power to the Federal authority, and in 1848 a constitution similar to that of the United States was framed which stands as the basis of the present revision of 1874.

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<sup>1</sup> Vienna Congress, Art. LXXIV.

<sup>2</sup> Bundesvertrag, 1815. Bluntschli: "Bundesrecht," II., 358.

<sup>3</sup> Bluntschli: "Bundesrecht," II., 388-428.

Switzerland obtained its final union sixty years later than the United States, and yet remains behind them in central power; but, in consideration of what has been said, in consideration of national instincts, national experiences, and political education, is it any wonder that the words "sovereign state" should be conspicuous in its constitution? All the elevating memories of the national history, all the inspiring traditions which had been bred into national sentiment generation after generation, were connected with a league of states of almost insulated independence. The darker periods, when fraternal feeling lost its hold, and when disunion received its just reward, were enveloped in motives, religious, ambitious, or pecuniary, which are so deeply wrought into human nature that isolation, once engendered, easily perpetuated itself, grew deeper, and fastened itself into the national habit of thought.

Then when solidarity was first offered, the form of it was so historically crude and so rudely forced upon the country, that, although common misery broke down many old prejudices, love for unity could hardly come out of it.

Reaction was a most natural result, and it needed the economic as well as the political advancement of this century to bring the state to its present form.

It is usual, in summarizing the history of Switzerland, to trace the growth of the federal idea, the tentative steps toward centralization. That is perhaps the more grateful task. But the opposite side of the question has been chosen for this occasion, in order to explain the existence to-day and the continuity from time past of a trait of character which has played a vital part in the evolution of that state. Confederation was the means of its greatness, but behind that, the motive to union, the mainspring of political combination, was desire for local independence. Without it the Swiss republic would not have existed. At the beginning there would have been nothing else to fight for. Later on there would have been no reasons for wider combinations, and although it was at times sadly abused, the Swiss people, as they look back over the history of their neighbors

who fell under the power of dynasties, may thank fortune that the principle was preserved.

There are several other constitutional provisions which are accounted for by this same idea. The federal government is not allowed to keep a standing army. The situation is almost exactly the reverse of that in the United States, for the cantons are permitted to maintain three hundred standing troops each. The federal government, however, has a monopoly of powder manufacture and assumes control of all armies in time of war.

The Swiss conception of the national executive is also a natural survival. While we have gone so far as to say that the administration is vested in a single man, the Swiss republic, although it also has a president, declares, in Article 95: "The highest executive and directorial authority of the Confederation is exercised by a federal council composed of seven members." The president is selected from one of these by the federal congress.

Central authority in Switzerland since the birth of the republic has always been vested in a committee, and in a committee it is to-day.

That peculiar veto power known as the Referendum in its present form is a modern invention, but the principle behind it is as old as the nation.

The word comes from the usages of the old federal diets, in which, as said above, the delegates did not decide matters themselves, but voted *ad referendum*, and submitted their actions to the home government. Where pure democracies continued, all law-making, of course, remained with the people, but in the more or less aristocratic republics it escaped their hands. The power to decide upon organic law was the first to be recovered. When an amended Helvetic constitution was submitted to popular vote in 1802 this was accomplished. The power to veto an ordinary law made by representatives was established for the first time in modern days, in 1831, in the Canton of St. Gall.<sup>1</sup> It was a compromise between the party which wanted to establish pure democracy,

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<sup>1</sup> Th. Curti: "Geschichte der schweizerischen Volksgesetzgebung," p. 128.

and the party of representative government. They agreed that, if enough citizens desired, any law could be submitted to the people. This was a triumph of democracy beyond the dreams of Rousseau. He had little hope that in his rigorous country true self-government would ever exist. The land was too large and too cold for town-meeting legislation. But by this happy thought, the citizen has been enabled to make or unmake the most important laws of his country, statutory as well as constitutional, without leaving his own village, or standing out in the cold.

It is, however, only the same old Swiss voter of centuries ago telling his member of the diet to conclude nothing important without his consent. The custom has since spread so that nearly all of the twenty-five governments in Switzerland have some form of Referendum.

The position which Switzerland occupies as a neutral State, with liberal institutions, in the midst of countries less favorably endowed, is one which attracts our sympathies. We pride ourselves in our land of the free, the refuge for the poor and oppressed of every clime. Switzerland shares this mission with us, and has long been a retreat for the dissatisfied and the exile. But more than this, its central situation, combined with its neutral politics, has given it an international function which is interesting to note. Uncontaminated by the ambitions of its neighbors, it offers to contending nations a quiet spot in which to settle their disputes by the peaceful means of arbitration. It is not only a place of occasional conventions, but also the established centre of a host of continuous international agreements, commercial treaties, the universal postal union, the telegraphic union, and others, which render peace and freedom necessary, and therefore secure within her borders. A poet might look forward here to see the parliament of man, but the historian, looking back, will find again the ancient Alamanni.

They tell us now that this name comes down from "Alah,"<sup>1</sup> sacred groves which once existed in primeval Germany, and formed a central gathering-place for the tribes of the Sem-

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<sup>1</sup> Dändliker: "*Gesch. der Schweiz.*," I., 84, note.

nonces. Here the nations, born to war and nurtured in contention, met on holy ground. Here strife was laid, and bound by ties of one religion they joined, if only briefly, in common reverence of higher things.

These Alah-men moved on. Their country was for centuries a scene of war, but now again in these last days it is a place where swords are sheathed, a sacred spot, an oasis of peace.

After the reading of Mr. Vincent's paper, ex-President Andrew D. White of Cornell said, by way of discussion, that the paper pleased him because of the comparative method used in it. He thought it very desirable that students and others should be led to compare the institutions of other countries with those of the United States in order to get new ideas. Travellers in Switzerland found that in many things they do better there than here. Roads, for instance, were greatly superior to those of New York State, where it is said the middle of the road is the most fertile part of the country, since it is annually plowed up.

In educational matters, also, they had a way of doing things at once instead of waiting for some one to give the money and keep his grasp on the interest of the country for centuries after he is dead. The speaker was reminded of other curious survivals which the paper would doubtless have mentioned had time allowed. Especially the curious combination of feudal with democratic ideas in some of the most purely democratic cantons. He said that he visited last summer the Swiss ambassador at Berlin, who resides at home in Appenzell. In this canton the laws are made by popular vote, and they elect every year a landammann or governor. In the house of this ambassador he saw three swords hanging over the shield, which had been the State swords of his grandfather, father, and himself when they were landammann. The son also when addressed as the young landammann took it also as a matter of course, a natural state of things. It was a curious mixture of democratic government following family lines. He hoped that the writer of the paper would continue his studies in the lines



indicated, and wished also to see in all our universities schools of comparative legislation such as Laboulaye had in France for the study of the methods by which various countries had tried to solve political problems.

The second paper of the Tuesday morning session was by General W. W. H. Davis, of Doylestown, Pa., and was upon the subject of "The Spaniard in New Mexico." The paper is given herewith in a somewhat revised form.

### General Davis' Paper.

Spain took a leading part in the discovery, exploration and settlement of the New World. Although Columbus, the discoverer, was not a native, he was in the service of Spain, when he looked, for the first time, upon the tropical beauties of the Western Hemisphere from the quarter-deck of the *Pinta*.

Spaniards were the first to make a lodgment on the mainland; and the world will never tire of reading the almost fabulous conquests by Cortez and Pizarro, as drawn by the pen of Prescott. Another Spaniard, Balboa, born neighbor to Cortez, in Estremadura, was the first to look down, from the mountains of Darien, upon the tranquil Pacific Sea, whose waves, as they laved the beach at his feet, sang a welcome to the commerce shortly to whiten its bosom.

In their early explorations, the Spaniards did not confine themselves to the middle and southern sections of the continent. They early seized territory now a part of our own country; and at one time there was danger of Spain becoming the ruling power in North America, if not such already. Ponce de Leon landed in Florida in 1512, and startled the world by announcing the discovery of the "Fountain of Youth." Vasquez de Ayllon, who discovered South Carolina, in 1520, was appointed governor of that region ninety years before the Cavaliers settled Virginia, and a full century prior to the landing of the English Puritans on the rock-bound coast of New England.

Several subsequent attempts were made by Spain to ex-

plore and colonize portions of what is now the United States—Narvaez, in 1528; De Soto, in 1537, the first to reach and cross the Mississippi, and in whose turbulent waters his remains were buried; Francisco Vasquez Coronado, in 1541 and Pedro Melendez, in 1565.

Pamfilo de Narvaez, a Spanish cavalier of rank and fortune, whom Charles V. appointed Governor of Florida in 1527, landed at Tampa Bay, April 12, 1528, with four hundred men and eighty horses. Among the officers was Alvar Nuñez Cabaza de Vaca, grandson of Pedro de Vaca who made the conquest of the Canaries at his own expense; and who is described as having the most beautiful and noble figure of all the conquerors of the New World; and, in the best days of Spanish chivalry, his valor on the field of battle, his resolution in danger, and his constancy and resignation in hardship won for him the appellation, "Illustrious Warrior."

It is not my purpose to accompany Narvaez; it is enough to say he left the coast, the first of May, for the interior. After marching a distance estimated at 280 leagues, fighting several battles, and sustaining severe losses, he returned to the Gulf at a point he called the Bay of Horses, one of the coves of Apalache Bay, a location confirmed by Añasco and Herrera.

Their situation was now critical, for the fleet had sailed away, leaving them to their fate. There was but one way of escape, if that were even practicable: to build boats and coast the Gulf to the settled parts of New Spain. After great labor, and converting the metal of their equipments into tools, nails, etc., the tails and manes of their horses into cordage, and the shirts of officers and men into sails, five boats were completed and equipped, and on the 22d of September the 240 survivors embarked upon an unknown sea. They sailed to the west, encountering storms and suffering from the want of water. The last day of October, they discovered and passed the mouths of the Mississippi, two years before De Soto reached that river, and five years prior to the survivors of his expedition sailing down it. On the

4th of November, Vaca's boat, the only one not already wrecked, was cast upon a desert island on the coast of Louisiana, and himself and companions made prisoners by the Indians. They finally reached the mainland, where they encountered many vicissitudes, and were subjected to the most barbarous treatment. For the next ten years, Vaca and three companions, the only survivors of the expedition, wandered up and down the central region of the continent, finally reaching the settled parts of New Spain.

While we can only approximate the route of these early explorers, there can be no question they crossed New Mexico and Arizona, until recently a part of it, and were the first Europeans to tread the soil of that country. Starting inland on a general northwest course, they probably struck the Red River; ascended it some distance; then turned to the west, and traversed the plains to the Canadian fork of the Arkansas, near the Great Cañon; continuing, they reached the Pecos River, the next stream of any magnitude east of the Rio Grande. They encountered many tribes; calling one the "Cow Nation," from the great number of cattle (buffalo) on the banks of the principal river. When Espejo was on the Pecos, in 1583, half a century later, he named that stream the "River of Oxen," for the same reason; and I believe these two rivers to be identical. Our wanderers crossed the Rio Grande at some undetermined point south of Santa Fé.

Circumstances point their general whereabouts. They saw the mesquit tree, of whose berries the Indians made flour and baked it into bread, and they ate of the piñon, a small and palatable nut, both common to New Mexico. They met people wearing emeralds and turquoises, still worn as ornaments by the Indians of that country. Some of the tribes practised the present sport of the Pueblo Indians, of killing rabbits with clubs, and others washed their garments with the soapy fibrous root of a species of palm now called *amolé*, and not found out of New Mexico. The people of fixed habitations, among whom they travelled for

300 leagues, were none other than Pueblo Indians, for they alone, of all the inhabitants of that region, had permanent dwellings.

The earliest information the Spaniards of Southern Mexico had of New Mexico, then known as "The Country of the Seven Cities," or Cibola, a word accepted as the Spanish for buffalo, was about 1530. An Indian in the employ of Nuño de Guzman, the President of New Spain, and said to be a native of Tejos, represented that he had traversed the country; had visited the Seven Cities, extensive and beautiful, where entire streets were occupied by workers in the precious metals. What a charming delusion to the Spaniard!

When Hernandez Cortez said to an Indian governor, soon after landing in Mexico: "The Spaniards are troubled with a disease of the heart, for which gold is a specific remedy," he epitomized the moving cause of all Spanish exploration in America. The relation of the Tejos Indian aggravated this disease in New Spain, and an attempt was made to explore the country, but without success. About this time Cabeza de Vaca arrived at Culiacan and confirmed what had been heard. He said he had been told of great cities, with houses four stories high; the country was populous, and abounded in cattle that roamed in great herds; the people were cultivated and lived on maize, pumpkins, and other vegetables; and he had seen many towns of fixed habitations, whose inhabitants dressed in cotton and tanned deer-skins.

The viceroy immediately sent friar Marcus de Niza to explore the country, accompanied by a small escort, and one of Vaca's companions. They set out the 9th of March, 1539, and made a long journey to the northwest. On the friar's return, he gave the most exaggerated account of what he had seen, and been told by the Indians, more than confirming previous reports. He said he had found the country of the Seven Cities that Guzman had searched for in vain, and had discovered islands in the South Sea, filled with untold wealth. What could be more seductive to the adventurous and gold-loving Spaniards? Even the viceroy

lent a willing ear to the friar's stories, and shortly every pulpit resounded with his remarkable discoveries. It was new fuel to the flames already consuming them. They could not resist the allurements of the unknown with its golden lining.

The conquest of the Seven Cities was now undertaken in earnest. The viceroy organized an army of 1500 Spaniards and Indians, with 1000 horses, and placed it under the command of Don Francisco Vasquez Coronado, Governor of New Galecia. He is represented as "a good gentleman, and a wise, prudent, and able man"; and the chronicler of the expedition says: "I doubt whether there has ever been collected, in the Indies, so brilliant a troop, particularly for the small number of 400 men." The army marched from Compostello in January, 1541, amid the acclamations of the inhabitants.

The Spaniards marched almost parallel with the Gulf of California to the latitude of the Gila, when they changed their direction to the northeast. Crossing that stream near Cases Grandes, otherwise Chichilticale, meaning *Red House*, Coronado entered upon a barren, broken country, and in fifteen days reached the "country of the Seven Cities." The chief town was taken by assault, when the province submitted. Instead of seven great cities, the province of Cibola contained but that many villages, with houses built of mud and stones, and entered by outside ladders; whose inhabitants dressed in skins and cotton stuffs, and the women were well-treated. They had priests who preached from the highest point in the villages every morning; and the cross was recognized as an emblem of peace.

The location of this initial point in Coronado's campaign is highly important. After careful investigation, assisted by several years' residence in that country, I believe the chief town, the Spaniards took by assault, to have been the present Indian pueblo of Zúñi, in the western part of New Mexico, near the Rio Colorado Chiquito. The approaches, surroundings, and location all sustain it. This is confirmed by the journal of Cruzate, which states that Zúñi was known

as the "Buffalo Province" at the time Philip II. ascended the throne, twenty-five years after Niza's explorations.

Starting from Zuñi, as one of the Seven Cities, the subsequent march of Coronado may be intelligently traced. If any other location be given it, the student of his campaign will find himself at sea without compass or chart. From this point several explorations were projected. One party went westward into the province of Tusayan, the present Moqui pueblos, on the tableaux between the rivers San Juan and Colorado Chiquito. Thence they explored the country to the river Tizon, the present Great Colorado, and from its banks peered down at the silvery stream two thousand feet below. In Shea's translation of "The Expedition of San Diego Dionisio de Peñalosa," the river Tizon is said to be the same as the present Gila, an error that cannot stand criticism. In the expedition of Saldivar, 1618, in going west he struck the Tizon after passing the last of the "Moq" towns, the present Moqui pueblos, and marched two days up that stream "northward." As the course of the Gila is from east to west, and that of the Colorado from north to south, Saldivar could not have marched up the Gila "northward."

Going eastward, the Spaniards visited Acuco, identical with the present Acoma, a strong town on a rock, and Cicuyé, a large and strongly fortified village in a narrow valley watered by the present Jemez or Guadalupe River, and of which province the pueblos of Santa Ana and Silla are probably remains. Coronado, in person, visited the provinces of Tutahaco, of eight towns, in the valley of the Gallo, of which Laguna only remains; Tignex, of twelve towns, on the bank of a river, probably the Puerco, now an inconsiderable stream; Hemes, the Jemez of to-day, fifty miles west of Santa Fé; and Quirix, likewise of seven villages, whose inhabitants were hostile.

Coronado received flattering accounts of provinces still farther to the east. A native of one of them said a river two leagues broad ran through it, in which were fish as large as a horse; that the canoes, capable of carrying twenty

rowers, were propelled by sails and fitted up in great magnificence; that a large golden eagle was fixed in the prow, and the master reclined in the stern under a beautiful canopy; that the sovereign took his siesta in the shade of a great tree, charmed to sleep by the music of little golden bells suspended from the branches, which sounded when the wind blew, and that the most common vessels were made of massive wrought silver, and the plates and porringers were of gold. Is it surprising such marvellous stories captured the Spaniards of the first half of the 16th century? They would almost move the average American at this day from his moorings.

The Spaniards now resume their march to the northeast over the Jemez mountains, crossing the Rio Grande, probably between the present pueblos of Cochiti and San Yldefonso and a little to the north of Santa Fé; through the spurs and foot-hills of the Rockies, and reached the Great Plains northeast of Fort Union. After marching a considerable distance upon the plains, encountering wandering Indians, called Querechos, and others, who spoke of having seen Vaca and his companions, meeting with great herds of buffaloes, and hearing of a river to the east that might be followed down for ninety days without leaving an inhabited country, the army returned to the west of the Rio Grande.

Coronado separated himself from the army, and with an escort of thirty horsemen set off in search of the town of Quivira, of which he had heard fabulous accounts from his guides. It was represented as large and populous, but when reached, after a long journey, it was found to be a small village resembling those of New Spain. There is nothing in the Spanish text to fix the location of Quivira, and we are left almost wholly to conjecture. Shea, on the authority of Friar Freytas, the chronicler of Peñalosa's expedition of 1662, locates it out on the plains, northeast of Santa Fé, and probably east of the Missouri River. We think this an error. No ruin, great or small, bearing this name, has ever been discovered in all that section. We should look for it

in another direction. In the county of Valencia, New Mexico, about one hundred and fifty miles south of Santa Fé, is a ruin known as the "Grand Quivira." Thirty-five years ago it covered an area 950 by 450 feet, and the remains include the ruins of a stone church and monastery, and no doubt belonged to a Spanish mission. The name was probably handed down from an Indian town that stood on or near the spot. All the surroundings indicate great age; large cedar trees are growing upon an old road-bed; there is no trace of cultivation, and the nearest water is fifteen miles away. Whether this is the Quivira of Peñalosa and Coronado must be determined by future investigation.

While the expedition of Coronado dissipated the romantic stories of the greatness and richness of the Seven Cities, it developed the fact that New Mexico had a numerous population, living in fixed habitations grouped in villages, with the elements of a rude but interesting civilization.

Two further attempts were made by the Spaniards to explore New Mexico in the next forty years, by Augustin Ruiz and two Franciscan friars in 1581, who were killed twenty miles south of Santa Fé, and by Antonio de Espejo, who led a small party thither the following year. They gave such a flattering account of the country and of the mines of precious metals, the Viceroy of New Spain determined to take possession and colonize it.

This work was entrusted to Don Juan de Oñate, who entered the country in 1591 with four hundred armed men, one hundred and thirty families as settlers, and a corps of Franciscan friars to convert the Indians. The natives received them as friends; the new settlers began to build and plant, and peace and plenty smiled on every hand until that disturber of the age, Spanish thirst for gold, stepped in to destroy the sweet harmony that prevailed. A keen hunt for gold and silver was now set on foot, and as mines were opened and worked the cultivation of the soil was neglected. The sacred aphorism, "The love of money is the root of all evil," was never more forcibly demonstrated than in the settlement of Spanish America.



In a few years the Spaniards assumed the prerogative of masters, and harmony between the races vanished. The Indians were forced to work in the mines; assume a form of worship they neither understood nor sympathized with; and support priests in every village. Their favorite dance, the *cachina*, one of their religious rites, was interdicted; their altars removed; their *estufas* closed. No people, civilized or savage, can be touched in a tenderer spot.

At length the Indians looked upon the Spaniards as intruders and tyrants; their yoke galled, and they longed to throw it off. Several attempts were made at armed rebellion, prior to 1670, but failed; in each instance being betrayed by one of their own number, or overpowered immediately they took up arms. But failure did not dampen their ardor.

Spanish oppression reached high-water mark in 1680, and the Indians determined to bear it no longer. In that year, Popé, a distinguished San Juan Indian, who exercised a controlling influence over his brethren, combined the Pueblos against their oppressors. He had active and zealous co-laborers. Among these were Catite, a half-breed Queres Indian, Tacu of San Juan, Jaca of Taos, and Francisco of San Yldefonso. Popé traversed the country like another Peter the Hermit, and, with an eloquent tongue, pictured their wrongs to the Indians and aroused them to resistance. He told them their Great Father, and chief of all the Pueblos, he who had been their father since the flood, had commissioned him to order his countrymen to rebel against the Spaniards; that he had conversed with three departed Indian spirits in the *estufa* of Taos, Caidit, Tilim, and Tlesime, who directed him to make a rope of the palm leaf, and tie in it knots to represent the number of days before the uprising would take place, one of the oldest methods known of recording events; that he must send this rope to all the Pueblos in the kingdom, and that each one should signify their approval by untying a knot.

Popé sent the palm-leaf rope from pueblo to pueblo, as directed, by the fleetest young men, inviting all to join in

the rebellion, and threatening with death those who refused. Absolute secrecy was enjoined, and a constant watch kept upon those likely to divulge the plot; and not a woman was let into the confidence of the conspirators. Popé put to death his own son-in-law, Nicholas Bua, governor of the pueblo of San Juan, who fell under his suspicion. The time fixed for the rising was the 10th of August, and the Indians looked forward to it as their day of deliverance. They had newly bent their bows, and tipped afresh their arrows to draw Spanish blood, and awaited the day with impatience.

But in spite of all their precaution treachery lurked in their own ranks, and two days before the time a couple of Tesuque Indians divulged the conspiracy to the Spanish governors. The Indians took up arms at once. That night the Pueblos nearest Santa Fé, the capital, began an indiscriminate slaughter of all Spaniards who fell into their hands, sparing neither priests, women, nor children, except a few of the handsomest maidens the warriors reserved for wives.

The rebellion burst upon the Spanish authorities before they were prepared to meet it. The settlers were called in for refuge, but many were overtaken and massacred; and the capital was put in the best possible state of defence. An infuriated body of Indians from the north and south marched against Santa Fé and surrounded it. Every effort was made to induce them to return home, but they would listen to no proposition that did not embrace the immediate evacuation of the country by the Spaniards. After a siege of ten days, and a desperate sortie by the Spaniards, the garrison and citizens withdrew from the town in the night, and marched down the river to El Paso.

The Indians took possession of Santa Fé and commenced the work of destruction. They danced, in wild delight, around the burning churches and convents, crying: "God, the Father, and Mary, the Mother, of the Spaniards are dead," and that their God alone lived. They re-established their heathen rites, with the four cardinal points of the com-

pass as their visible church, and made offerings of flour, feathers, the seed of the meguey plant, corn, and tobacco to propitiate their deity. They then bathed in the little stream that flows by the town to cleanse themselves of Christian baptism, and ordered all baptismal names to be dropped.

Popé made a tour of the country, being received with almost regal honors; promising health and good crops to all who complied with his demands. He everywhere ordered the churches and convents burned, and the articles used in Christian worship destroyed. He entered the pueblo of Cia riding on a black mule, and dressed in full costume, with a bull's horn fastened on his head. After making a speech to the Indians, and sprinkling them with corn meal as an emblem of happiness, he and his lieutenants sat down to a sumptuous repast, drinking wine from the sacred vessels.

The heaviest vengeance fell upon the poor priests, who were generally put to death by their own flocks. The priest at Jemez was first paraded around the church on the back of a hog and beaten with sticks; then made to get down on all fours, when his cruel persecutors got on his back and lashed and spurred him until he fell dead. The priests of Acoma were stripped, tied together by a hair rope, driven through the streets, then killed with clubs and stones, and their bodies thrown into a cave. The priests at Zúñi were dragged from their cells, stoned and then shot; while those at the distant Moqui villages, after suffering many indignities, were stoned to death. The only silver lining to this rebellion is the conduct of the Franciscan friars. They were faithful to the last, and in no instance is their flight from danger and death recorded. Such devotion to duty deserves a place in history.

After the revolutionary chiefs had finished their journey, they returned to their respective pueblos, and set at work to consolidate their newly obtained power. If the old Spanish MSS. are to be believed, some of the leaders did not long retain their power, for it is reported that both Catité and Louis Cupavo burst asunder with a report like a gun and were carried off by the Devil.

The Indians retained possession of the country for almost a quarter of a century, in spite of several attempts to reconquer it, and Spanish rule was not re-established until 1703.

The origin of the people the Spaniards found in New Mexico 350 years ago, and their status to-day, are pertinent inquiries. Their are two theories as to their origin: one, Aztec; the other, Toltec. By tradition, when the Aztecs settled New Mexico they came from the north or northwest, and reached their new homes in the valley of Anahuac after a period of 150 years; that they travelled by stages; halting, building villages and cultivating the earth. Castañeda believed they were of this migratory party, and that some of them remained in New Mexico, when the main body moved on.

The Pueblo Indians, themselves, believe they are the people of Montezuma, and he is strangely mixed up in their social and religious life. The inhabitants of Pecos, until their extinction, believed Montezuma would return to deliver them from the Spaniards; and every morning, at sunrise, one of their number ascended to the house-top and looked to the east for their expected savior and king. Many years ago, I was shown, at the pueblo of Laguna, a strange contrivance they worshipped as Montezuma, and which the governor told me was both God and the brother of God. A Jemez Indian told Lieutenant Simpson that God and the sun were one.

On the other side we have conflicting testimony. Albert Gallatin, who investigated the subject with great care, and whose judgment is entitled to great consideration, believed the people the Spaniards found in New Mexico to be of Toltec origin. Humboldt says the Aztec language differs essentially from that spoken by the Pueblo Indians; while Castañeda said the latter were unknown to the inhabitants of Mexico prior to the exploration of Vaca and his companions.

That the Pueblo Indians of New Mexico are the same people the Spaniards encountered in their search for the Seven Cities, there is no question. They live in the same

quaint villages, half fortification, half dwelling, standing where they then stood, and many of them bear the same names ; they have the same manners and customs, are governed by the same laws, enforced by the same officer with the same title. They eat the same food, dress, substantially, the same, practise the same heathen rites in the secrecy of the *estufa*, and believe in witchcraft, as probably did their ancestors a thousand years ago. But they are not the same powerful people. In numbers they have been reduced to about ten thousand, living in twenty-six villages, mostly in the valley of the Rio Grande. In the days of their strength they formed four distinct nationalities, speaking as many languages : Peros, Teguas, Queres, and Tagnos or Tanos. The languages of the first three remain, but the Tagnos has become extinct. The villages are not grouped according to nationalities, but widely separated, some that speak the same language being three hundred miles apart. The cause of this dispersion is buried deep with other mysteries that surround this interesting people. In the days of their greatest strength the Queres were the most powerful of all the Pueblo nations, and in their conflicts with the Spaniards they sent the ablest warriors into the field and furnished the most cunning statesmen to the council chamber.

The concluding paper of the Tuesday morning session was by Professor Moses Coit Tyler, of Cornell University. Subject : " The Historic Name of Our Country."

#### **Abstract of Professor Tyler's Paper.**

To many thoughtful people the technical and official designation of our country, " United States of America," is unsatisfactory. To begin with, they object to it because it is not a word but a phrase, not a single sound like France, Italy, Germany, England, but a mere agglomeration of words, a political formula, at once awkward to use and utterly void and dry of all that is picturesque and lovable. It is a designation from which we have no means of describing ourselves but by a circumlocution. Then, too, that part of the phrase

which is composed of the word "America" is objected to as a monument of injustice to Columbus. Furthermore, the word "America," it is said, does not distinguish our country, since it is equally applicable to the whole hemisphere. Finally, the words "United States" do not correct the indefiniteness, there being several other "United States" in this hemisphere.

These objections have been felt ever since we became a nation, and many attempts have been made, with more or less seriousness, to induce the people of this country to agree to adopt and use some one name as the exclusive and permanent sign of our national identity. Thus during the past one hundred years, at least nine different words have been brought forward for this purpose : Columbia, Allegania, Apalachia, Washington, Vesperia, Freeland, Fredonia, Cabotia, and Vinland.

Of course these attempts have failed, for the simple reason that the name by which a country and a people are known in the world is always a growth, and can never be manufactured to order. From this it follows that whenever the name of any nation has become matter of general usage among men, that name has become historic, and has passed beyond the reach of criticism on whatever score, whether that of original injustice, or of original indefiniteness, or of lack of euphony, or what not. The question therefore is : Has our country such a name? Some consideration will show that it has such a name—the single word America ; not North America, nor South America, but just America ; and this by a usage which began more than two hundred and fifty years ago, and has been steadily growing ever since.

This word has been in existence just 380 years ; and during that time it has passed through at least four distinct stages of meaning. Its first meaning, and apparently the only one intended for it, was as the name of a supposed Asiatic locality—namely, that vast portion of the newly discovered lands including what is now called Brazil and the country to the south of it. Apparently, there was no intention that the word should cover the central regions

first seen by Columbus, or the northern regions first seen by Cabot. The second stage of meaning began to appear after about 34 years, and was the extension of the word over the entire western continent. The third meaning was such a modification of this as came from the recognition of the two great bulks of land in the New World forming two continents, and to be distinguished as North and South America. In this way, the separate word, America, was less and less used as a separate continental term, and was left comparatively free to be appropriated, as it began to be during the first half of the seventeenth century, as the distinguishing name of the English portion of the northern continent. This leads up to the fourth meaning,—as the collective name for the English colonies here in the seventeenth century, and adhering to them as they became grouped into thirteen colonies, and growing with them as they passed through their several constitutional forms as united colonies, as confederate states, and finally as States united into one nation. The progress of this usage was then traced in colonial charters, state papers, parliamentary speeches, colonial declarations, pamphlets, private correspondence, newspapers, etc., down to the present,—all going to establish the proposition that the word America is the historic name of our country, and quite as much so in the usage of other peoples, as of ourselves.

### **Report of the Committee on the President's Address.**

After the literary exercises Tuesday morning, the following report was made to the Association :

The committee, to whom was referred that portion of the president's address relating to assistance by the general government in collecting, preserving, and calendaring American historical manuscripts, beg leave to report :

I. The need of such assistance is abundantly shown in the present neglected and perishing condition of a great number of most valuable historical manuscripts now in private hands in this country.

II. The propriety of such assistance by the government

in the general direction now indicated is already established by numerous precedents, in special cases, on the part both of the national government and of the governments of the several States.

III. For the purpose of testing public opinion upon this subject during the coming year, and especially of consulting the government respecting the establishment of a competent, unpaid national commission for the collection, preservation and utilization of historical manuscripts, it is recommended that a committee of seven be appointed by this Association, to take such measures as may seem to them most suitable, and to report the same at our next annual meeting.

IV. It is recommended that this committee do consist of the following members: Justin Winsor, George F. Hoar, John Jay, Andrew D. White, Rutherford B. Hayes, A. R. Spofford, and Theodore F. Dwight.

V. The secretary of the Association is requested to send at an early date a copy of these resolutions to each member of the committee just named.

M. C. TYLER,  
GEO. W. CULLUM,  
MELLEN CHAMBERLAIN.

#### AFTERNOON JOINT SESSION.

TUESDAY, *May 24*, 1887.

The American Historical and the American Economic Associations met Tuesday afternoon, at 3 o'clock, for a joint session in Sander's Theatre, at Harvard University. Mr. Justin Winsor, and General Francis A. Walker presided. In the audience were many citizens of Cambridge and students from the University. The first paper of the session was upon the subject of "Our Legal Tender Decisions: a Study in our Constitutional History," by Professor E. J. James, of the Wharton School, University of Pennsylvania. This paper will be issued among the "Publications of the American Economic Association." The second paper was by Dr. Albert Bushnell Hart, of Harvard Uni-



versity, and was entitled: "The Biography of a River and Harbor Bill." The paper is here printed in full:

### **Dr. Hart's Biography of a River and Harbor Bill.**

To write a complete and accurate history of an important Act of Congress would be to throw an illumination upon our national legislation, national government, and national character. For every important statute is the resultant of all the social, political, and economic forces at work in the country. Still more, the process of legislation, if we could follow it at every stage, would be seen to explain some of the most obscure and most interesting phases in the life of the nation. But who is to disentangle the threads? Who can discover the undercurrents of influence of individuals, of corporations, of municipalities, of States, of private counselors, of voluntary advocates, of paid lobbyists? who is to assign the right equivalent to each member of the legislative body? to the President, to his seven official advisers, to the Speaker of the House of Representatives, to each of the seventy-six Senators and three hundred and twenty-five Representatives? Above all, who is to measure the effect of tradition, precedent, and forms of organization? We have a careful and reasonably exact record of words spoken and action taken on the floors of Congress; but who will tell us what goes on in committee, or in private conference, or in the lobby? who knows the motives which cause votes to combine and separate?

The paper to-day is, therefore, not a history of the River and Harbor Bill of 1887. It is an attempt to consider it as one might study the life of a rather obscure public man; the outward events are few and uninteresting; but at every stage we come in contact with persons and organisms which the bill helps us to explain. The dullest man may meet and observe kings. The dreariest act for internal improvements illustrates at the same time the manner of legislating in Congress, and the way in which the public funds are spent.

There is a reason why the annual River and Harbor Bill especially rewards the student. It is a sort of comet in the

congressional planetary system. Other appropriation bills appear each year in about the same form, pass through the same sort of debate, and are approved as the same matter of course. The River and Harbor Bill has an orbit of its own; no man is able to predict its splendor or the time of its appearance. It dashes into Congress, and is attracted hither and thither; and to the last moment it is uncertain whether it will escape on its parabolic path, or collide with a disagreement of the Houses, or an executive veto. For this erratic behavior there are two causes: the bill is made up by a special machinery, and the bill is a luxury. Members of Congress must have their salary and mileage; and pensioners, diplomats, and Presidents must be paid; but rivers will flow and tides rise whether the appropriation passes or fails. The enemies of the bill are, therefore, sure to attack it, without any fear of crippling the government, and a counter effort is made to introduce it in a form as inoffensive as possible.

Before the bill is finally submitted to Congress it passes through four stages of preparation: local engineers survey and estimate; the chief of engineers estimates; the Secretary of War estimates; and the committee considers. The preliminary survey must have been authorized by a previous River and Harbor Act, and is not permitted until the local engineer has reported that the improvement will be of public necessity, and that the place is worthy of improvement. If, as often happens, he reports against it, no survey is made; otherwise he then submits a plan and estimates. The chief of engineers may alter the plan and pare down the estimate.

The official life of our bill began October 28, 1886, when the chief of engineers submitted his report, and set down as sums which might profitably be spent in the fiscal year 1887-88, items footing about \$30,000,000. The Secretary of War, in his report, November 30, 1886, pared down, in his turn, and estimated "for improving rivers and harbors, \$10,175,870." Save in exceptional cases, the War Department considers itself the agent of Congress in ascertaining

the practicability of improvements, and in forming engineering plans; and makes no suggestions as to the policy of internal improvements, or of authorized expenditures.

The Egyptians named not the name of Osiris, and it is with some trepidation that I mention the Standing Committee of the House of Representatives on Rivers and Harbors—more particularly since it has seen fit to recommend a survey of the Charles River from Boston to Watertown, Massachusetts. There is a mystery hovering over the operations of standing committees of Congress, a mystery only partially removed by Professor Woodrow Wilson in his admirable book on “Congressional Government.” That committee of which I have just spoken is one of the few House committees, besides the Committee on Appropriations, which has the power of reporting general appropriation bills. Up to March, 1883, the annual River and Harbor Bill was prepared by the Committee on Commerce. In several successive Congresses it was attempted to divide that committee, which the House was pleased to think overburdened. In 1882, the Chairman, Mr. Reagan, forced through the House the worst River and Harbor Bill that has ever been passed. In December, 1883, Congress adopted a new rule, placing under the control of a new committee all measures relating to rivers and harbors. In this case the immense power of the Speaker, through his appointment of committees, was well exercised. Mr. Willis of Kentucky, the Chairman of the River and Harbor Committee, has shown himself a candid, industrious, fair, and honest man. That two of his four bills have failed, is due rather to amendments forced upon him than to measures which he has introduced.

It is no sinecure to sit as one of the fifteen members of the committee. In the first place, to that committee are referred all petitions and memorials and all individual bills bearing on internal improvements. Of the bills, vast numbers were formerly introduced; at present, members prefer to go before the committee in person, and the memorials are in most cases sent direct. Next come the voluminous estimates of the chief of engineers and his subordinates, cover-

ing thousands of pages; the committee then attempts to digest the statistics of each river and port seeking an appropriation. The Secretary of War is called upon for information. Mr. Willis has further adopted the plan of asking all the members of both Houses to appear before the committee, where each has liberty to present the needs of his district or State; and nine tenths of them come forward. In addition, there are received and heard delegations from leading cities and from chambers of commerce—all upon a similar errand.

"The horse leech hath two daughters," said Solomon, "crying, give! give!" and the committee never suffers for want of information in favor of appropriations. Unfortunately, though every job has an advocate, no outsider pleads for the public interest; there are a hundred pleas for expenditure against one protest at extravagance. There is no organized river and harbor lobby, for almost every Congressman is an interested party. By petitions, bills, reports, and arguments informed, the committee begins to frame its bill. At once there springs up an ever-recurring difficulty: the bill must be carried; and the number of members who believe in a river and harbor bill as in itself meritorious, is hardly sufficient to pass it. There is no such proof of the national importance of a bill as an item within it for one's own district. On the other hand, the committee must select: the general distrust of harbor legislation, the numerous vetoes, and the fate of members who persisted in voting the Act of 1882, all suggest caution. The problem before the committee is always: How much may we put in without offending the newspapers? How much may we leave out without losing votes? The estimates of the engineers are far greater than the sensitive press will accept, and the committee has a rough rule of thumb by which it agrees to appropriate a certain proportion of these estimates. In 1887 the percentage was twenty-five; thus the amount of the bill was fixed at \$7,500,000. We must not suppose that each work receives something; some of the plans suggested are too plainly unworthy; others require too great an expenditure; the committee usually throws out a sixth or

an eighth of the items in the engineer's report. Furthermore, the committee does not scruple to insert items never before considered. In this manner in the bill of 1884 was included the first appropriation for the Sandy Bay Harbor of Refuge at Cape Ann, which is likely to cost \$10,000,000, and on which there had never been an estimate.

On January 8, 1887, when all the items had been squeezed or expanded till, taken together, they filled up the measure of the committee's purpose, the committee reported its bill to the House. The date shows a distinct advance over the previous *régime*. Four years ago Mr. Reagan did not report his bill till February 20, eleven days before the end of the session. In addition, Mr. Willis' accompanying report usually contains a courageous analysis of the bill. It is not to be presumed that the bill had the complete approval of any member of the committee; it was simply the best they could offer with any fair hope of its passing.

The bantling had now a name. It was "H. R. 10419," and was described as

### "A BILL

making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes." The public works were two hundred and ninety in number, and required a sum of \$7,430,000; the "other purposes" refer to some clauses, directing the manner in which the work should be carried on.

It was a world full of crafty enemies upon which H. R. 10419 opened its eyes. No sooner was it reported to the House of Representatives than a member gave notice that "all points of order are reserved on that bill," and when, having gone through the usual recommittal, it was a second time reported, January 11, there was heard the same formula, so suggestive of parliamentary stilettoes.

An appropriation bill is one of the few things that the House debates thoroughly. The River and Harbor Bill is peculiarly open to attack both in principle and detail. In 1886 each House gave up ten sessions to that one bill—a

total of not less than sixty hours of debate. There are at least five different parties to the discussion, each of which has a peculiar interest, and forwards it in a peculiar way. The first is made up of chairmen of other committees, who wish to bring forward their own measures, instead of the River and Harbor Bill; the second includes all the members with speeches, who wish unlimited general debate; next come the men with amendments, who wish only an opportunity to insert their item, and assure the House it will take but a moment; the fourth class is determined to kill the bill by filibustering. Finally, we have the Chairman of the Committee on Rivers and Harbors; to him other chairmen are Paynim knights, to be unhorsed at the first onset; general debate is a waste of time, and speech-making convinces nobody; amendment means the insertion of jobs, the excision of necessary items, and the disturbance of the nice adjustment of interests perfected by the committee; as for filibusters, every right-minded chairman looks upon them as piratical enemies of the human race, to be driven from the seas by force, or, if necessary, to be taken with guile. It is well known that the beginning of each congressional sitting is given up to miscellaneous business, and an hour to the call of committees for bills. Most of the remaining time on each of four days, January 15, 22, 24, and 26, was devoted by the House to debate on the River and Harbor Bill; and, contrary to the general usage, it passed precisely as reported.

The first struggle was with the Chairman of the Agricultural Committee, who, on three of the four days, vainly strove to induce the House to take up one of his bills instead of H. R. 10419. On each day the House went into "Committee of the Whole on the state of the Union, to consider the bill making appropriations," etc. It is in Committee of the Whole that bills are perfected, and that most of the parliamentary sparring takes place. Its more simple rules and more informal practice make it a medium of real debate; here amendments may be offered; an admirable rule permits five-minute speeches on each amend-

ment, and there is no previous question. The chairman of the committee in charge of the bill may and frequently does find means to cut off debate ; but Mr. Willis has shown himself willing to permit discussion, criticism, and amendment. It is true that the first gun in the battle was his motion that general debate be limited to ten minutes ; but he readily consented to three hours, to be divided between the friends and opponents of the bill as it stood.

In attempting to go into committee on the second day, the filibusters began their tedious tactics, which were kept up during a good part of three sittings. Now it was that most exasperating device, the cry of "no quorum" on every vote ; by themselves abstaining from voting, the opponents of any measure may prevent any amendments or action, unless the friends of the bill can keep within call a majority of all the members of the House. Now it was a motion to adjourn ; now it was the tedious call of the yeas and nays ; now it was a meaningless amendment ; now it was a frivolous point of order. The rules of the House are, on the whole, very lenient to a minority. Two men, backed by about twenty votes, caused the bill to stand still for two days. In vain did Chairman Willis remind them that he had not used his power to pass the bill under suspension of the rules, because he preferred fair debate.

Remonstrance failing, he proceeded to fight them in their own fashion. On January 24, Anderson, of Kansas, had moved an amendment which has several times been proposed, and, indeed, was once inserted by the House in a river and harbor bill, viz. : that the appropriation should be made in a lump sum, to be expended at the discretion of the Secretary of War. He mustered but fourteen votes. On the 26, before a single detail had been discussed, a friend of the bill submitted an amendment in almost precisely the same terms. The other side, though apparently puzzled, feared the gift-bearing Greeks, and opposed the motion on the ground that it was an "abdication of its functions" by the House ; for the items would undoubtedly be reinserted by the Senate. Nevertheless the amend-

ment was carried, and thus took the place of the original bill. There were no longer any items to discuss; the Committee of the Whole therefore rose, and the bill was declared completed, and thus incapable of further amendment. Mr. Willis next moved the previous question. At this stage the opponents of the bill seem to have seen the trap, and interposed points of order. It was too late; instantly the friends of the bill whipped about, and voted in the House against the substitute which they had just accepted in committee. The effect was to leave the bill precisely where it stood when reported January 9, but with this important difference: under the rules of the House it could no further be discussed or amended. The House had substituted the amendment for the bill, and the bill for the amendment; but the process of substitution could no further go. If the trick seem unfair, it must be remembered that the House had spent ten hours upon the bill, of which time the filibusters had consumed at least one half. Next day, January 27, the bill was quietly passed by a vote of 154 to 95.

As the Senate debates more carefully than the House, and as it guards jealously its prerogative of altering and increasing House appropriations, H. R. 10419 was now to lose its form. Sent to the Committee on Commerce on January 28, it was reported back February 17, but how changed! It was technically one amendment, but practically a new bill. Nearly every item had been raised, and many new ones added; the sum total was nearly \$10,300,000, instead of the original \$7,500,000. Although no item was struck out by the Senate, amendments offered by individuals added \$385,900 to this total. A few amendments were, however, ruled out of order because they proposed an appropriation for work on which there was no estimate, or because they were "legislation," or, to use a more familiar term, were "riders." The characteristic of the Senate proceedings was, as it usually is, the increase of appropriations, and the introduction of important works not included in the House bill. Thus the Mississippi received \$1,500,000 as



against \$1,250,000 in the House bill; \$50,000 was inserted for the survey of the Hennepin Canal; and \$150,000 and \$350,000 respectively for the Green and Barren, and Portage Lake improvements. The Senate passed the bill as amended, February 21, and knowing by long experience that the House would not concur, conferees were immediately appointed. The Senate had spent seven hours and a half on the bill, and had added \$3,100,000.

As there was technically but one amendment to its original bill, the House was not bound to consider each item separately; and when the Senate bill appeared in the House February 23, it was hastily acted on by the Committee on Rivers and Harbors, and they recommended non-concurrence. On February 26, when but five debating days remained, Mr. Willis moved to suspend the rules, to non-concur, and to appoint conferees. The filibusters were able only to obtain the reading of the bill. Thirty minutes' debate was allowed under the rules. It was perfectly clear that the conference was the only means now by which any bill could be carried. The necessary two-thirds vote was obtained, and the conference authorized; as is usual in such cases, the chairman and one of the leading members of the Committee on Rivers and Harbors were of the conferees.

American politics abound in ingenious labor-saving devices, by which the will of a few men replaces the will of a majority. We have the nominating caucus, the legislative caucus, the standing-committee system, and the conference committees. But a name may be rubbed out of the slate of the nominating caucus, while the conference report is seldom amended; the legislative caucus cannot prevent a bolt; the conference committee makes no minority report; the most powerful standing committee may see its carefully prepared bill shattered by amendments; the conference committee frames a bill which has never been considered in either House, and forces it through unaltered. The mightiest chairman on the floor may be swept off his legs when a conference committee claims the unrestrained privilege of presenting its report.

In theory the conference committee is empowered to consider only matters in disagreement between the Houses, and to arrive at some middle way in each. In practice they often frame practically a new bill, containing a new distribution of appropriations, and inserting some items never discussed in either House. In this way the Tariff Act of 1883 was reported. It is a very startling fact that at least one half the important acts of Congress are framed by these special joint, shifting committees of six men each. It would be interesting to know what went on between the 26th and 28th of February over H. R. 10419. It is possible to judge only by the result: the House bill called for \$7,500,000; the Senate bill called for \$10,600,000; the conference report called for \$9,913,000.

The Hennepin Canal, and purchase of the Green River and Portage Lake improvements were retained, and at least one new item had crept in.

Like many other tyrants, the conference committee registers its will through the forms of free government. When, on February 28, the report was submitted for the action of the House, there was but one way in which it could exercise any further control over the bill: it might reject the report and simply order another conference. Four successive conference committees had been necessary to arrange the River and Harbor Bill of 1886. The time was too short for further delay. The only remaining check was to insist that the report should be comprehensible, and that it should be read. It is very difficult to secure either of these simple safeguards. The report on the bill of 1881, carrying \$11,000,000, set forth only that the Senate had receded from amendments numbered so and so, and that the House had receded from its disagreements to amendments numbered so and so. A rule of the House required with each conference report "a detailed statement sufficiently explicit to inform the House what effect . . . such amendments . . . will have upon the measure to which they relate." Chairman Reagan then submitted a report of nine and one-half lines, from which no information could be had as to one single

item ; and the bill was passed in fifteen minutes, under the previous question. Chairman Willis usually presents a perfectly clear analysis of the changes made by the committee. But the clearer the conference reports on appropriation bills, the plainer is the fact that the House conferees yield to the Senate ; only one fourth of the Senate increase had been struck out. So far as the House of Representatives is concerned, conferences are what plébiscites in France have been defined to be—"a device for voting yes." The Chairman of the River and Harbor Committee, trying to please delegations and members in his committee, is one individual ; in the House, defending his bill, he is another ; in conference, facing the danger of failure, he is another : and the three individuals have different opinions as to what constitutes a proper bill. It is impossible for any chairman to see his bill finally fail for want of a few concessions ; and he has usually left room for concessions by cutting his original bill below what he expected to appropriate. At any rate, the House voted to consider the report. There was a feeble flickering of filibustering ; at this stage, "consideration" meant only that the previous question should be ordered. It was done. The final vote was now to be taken, and both sides mustered their retainers. By a vote of 178 to 89 the House agreed to the report of the conference committee. As the rules were suspended, the amended bill was thus passed.

The day following, March 1, the Senate agreed to the report of its conferees without a division. The only objection came from a senator who wished to see the bill in print. Next day, March 2, it was duly announced that the Speaker of the House had signed the bill, and that the Senate Committee on Enrolled Bills had found it correct.

Here let us stop a moment to describe the appearance and character of the bill of which we have so long followed the fortunes. First comes the enacting clause ; the second paragraph makes three hundred and fifteen appropriations for as many works ; the third clause regulates the manner of doing the work ; at the end is a general appropriation for

eighty specified surveys. The whole bill is hedged about with provisos, the most important of which are the stipulations for the expenditure of all sums under the direction of the Secretary of War, and the special supervision of a commission over the Mississippi River improvements. In many cases the appropriation is subdivided, as in the following example:

“Improving Newtown Creek and Bay, New York : continuing improvement, \$10,000 ; of which \$2,500 is to be expended on west branch, between Maspeth Avenue and Dual Bridge, at Grand Street and Metropolitan Avenue ; \$2,500 to be expended on main branch, between easterly Grand Street bridge to Metropolitan Avenue ; and balance on lower end, from Maspeth Avenue to the mouth of the creek.”

An analysis of the bill shows the objects for which appropriations are made, as follows: 109 harbors, 8 breakwaters, 3 harbors of refuge, 4 ice harbors, 13 channels, 162 rivers, 6 removals of obstructions, 2 purchases of improvements, 80 surveys, 8 miscellaneous. Appropriations are divided in 44 cases, making a total of 439 works upon which money is to spent. The total is \$9,913,000.

After sixty-five years of improvement of water-ways by the government it is too late to ask whether it is constitutional, or even whether it is expedient, to appropriate money from the national treasury for national objects. The moral character of H. R. 10419 must be determined by inquiring whether this particular bill is reasonable in amount ; whether the improvements would be of general benefit ; whether they are all useful to any one ; and whether the methods of administration are wise.

In answer to the first question, there has been a pretty steady increase since 1822 ; but it has not in proportion gone beyond the increase of the general expenses of the government ; and the bill for 1887 is, compared with those of the nine years past, by no means excessive.

Was the bill of general utility? If not, it was from no lack of effort to make it cover the whole area of the United States. It is a little hard to judge how useful the greater number of works may be ; for some of their names are not

always familiar, and several of the places mentioned in the bill modestly avoid the publicity of a gazetteer. Of course, every New Englander knows precisely the location of the western channel of Lynn harbor, leading to the Point of Pines, and sees the national necessity for its receiving \$1,000. But why should Hyannis Harbor get \$5,000, Aransas Pass \$60,000, Wappoo Cut \$2,500, and Upper Willamette River \$7,500? They all seem of equal importance to the great commerce of the United States. Why should Duck Creek, Delaware, have \$3,000, and Mispillion Creek, in the same State, which has a much larger name, be put off with \$2,000? Why should Currituck Sound, Coanajok Bay, and North River Bar, North Carolina, receive conjointly only as much as Contentnia Creek, near by? Is it fair that money should be appropriated for the Big Sulphur, the Yallahusha, the Pamunkey, the Chefuncte River, and Bogue Phalia, while our own Charles is put off with a pitiful survey? What power other than a modern language association can ever hope to "improve" the rivers Skagit, Steilaquamish, Nootsack, Snoquomish, and Snoqualmie?

There is other than geographic evidence that some of the items in the bill might well be omitted. In January, 1883, the Secretary of War made a report in which he designated ninety-two items in the previous River and Harbor Bill, carrying \$862,500, as not of general benefit. His reasons are instructive: in one port the annual revenue collected was \$23.25; in another there was no commerce whatever; in another, the real object of the appropriations was to provide hatching grounds for the use of the Fish Commissioners. Some rivers were incapable of permanent improvement; in others, the people had themselves obstructed the stream. One creek lay wholly within the limits of the city of Philadelphia, was an open sewer, and was barred by permanent bridges; all the water of another could, when examined, pass through a twelve-inch drain; and a quarter of a million had been appropriated, practically to protect land from the effects of hydraulic mining. Thirty-one of the items considered reappear in the bill of 1887; and it would be impossible to

say how many new ones are of the same sort. The great rivers and harbors in the bill of 1887, the improvement of which is at once seen to be national, take up \$5,570,000; the remaining \$4,200,000 was not likely to benefit any one outside the limits of the State within which it was spent.

In the present low state of public sentiment as to national expenditures, one might perhaps admit appropriations which do benefit some commerce, however local. But our bill, like most of its predecessors, contains provisions for the expenditure of money which will benefit only the owner of the water-front, or the contractor, or the laborer. There is an item in H. R. 10419 for "the protection of the Illinois shore opposite the mouth of the Missouri River." There is an appropriation of \$300,000 for the Missouri, purposely distributed among points where there are railroad bridges; and the understanding was, that it should be used to protect the approaches. Indeed, why should money be spent upon the channel of the Missouri? Senator Vest, of Missouri, frankly states that from St. Louis to St. Joseph there are but three steamers plying, and another member of Congress states that the draw in one of the bridges had been opened but once in a year. Some of the appropriations have left no other trace than the wages and profits of people within the district.

Here is a specific case, no worse in principle than a hundred others. Years ago the United States government granted very valuable lands to aid in the construction of a canal connecting the Fox and Wisconsin rivers. Having thus given the canal a value, it then proceeded to pay \$145,000 in cash for the canal, leaving, however, to the original owners the right to the water-power. It has further spent upwards of \$2,000,000 on the improvement. At the present time, according to a student at Harvard College who lives on the line of the canal, there is one small steamer making regular trips, and the only practical value of the improvement is that the government keeps up the water-power for private parties, who have recently sold it to other private parties for \$3,000,000. For improvements wholly within

the State, in the bill of 1881, Florida received for each \$1,000 of valuation \$7.16; Oregon, \$4.09; New York, 21 cents; Pennsylvania, 10 cents; and Iowa, 1 cent. It is not too much to say that, under the bill of 1887, \$1,000,000 would have been absolutely wasted, and \$2,000,000 more would have been of local benefit only.<sup>1</sup>

There remains one question. Is the money spent upon undoubted national improvements in general well applied? The first great defect of the system is, that too many works are undertaken at a time; every man wishes to see the wall built (by somebody else) over against his own house. Of the four hundred and thirty-nine works contemplated by H. R. 10419, in only eight cases is the appropriation sufficient to complete the work; the yearly dole is necessary in order to hold the yearly vote; whatever the estimate of the engineers, the application of the per-cent. rule by the committee makes it difficult to secure the finishing appropriation for any work. Pressing works are kept incomplete, or swept away because half finished. Yet the government is entering upon new and costly enterprises. The engineer reports no summary of the probable expenditure upon works now in progress; it can hardly be less than \$200,000,000. Every year new surveys are introduced, almost without opposition; they become the basis of new estimates and new appropriations.

The natural effect of indiscriminate expenditure is to discourage private enterprises. The government not only undertakes works for which private capital might be secured, but it has entered upon the purchase of existing canals and river improvements. The administration of the river and harbor improvements is honest; the engineers, for the most part army officers, capable; but the whole system is crippled by the constant interference of Congress. If that body choose to begin a Hennepin Canal involving twenty to thirty million dollars, the War Department has no choice

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<sup>1</sup> The writer will be greatly obliged to any person who will send him authenticated accounts of similar cases in which the government appropriations have been misused.

but to carry it out. A certain degree of discretion the Secretary does exercise; he withholds money from the grosser jobs; he accumulates balances unexpended against the year when the bill may fail; he insists on complete and comprehensive plans before great works are undertaken; but he is subject to calls for information from either House, and to attacks to which he cannot reply. Let me quote one single sentence from one of these congressional amenities. It appears that the Secretary of War had removed an engineer whom the Oregon people liked, but in whom the department lacked confidence. A senator from Oregon said: "Mr. President, I desire at this time to call the attention of the Senate and the country, and especially of the people of the Pacific Northwest, who are vitally interested in the speedy opening up of the Columbia River to free and unobstructed navigation, and who are, by reason of their peculiar situation as to transportation facilities, in no humor to be trifled with by questionable arbitrary action or non-action upon the part of executive officers, civil or military, some of the latter of whom have grown in a measure officially haughty, arbitrary, and to a degree intolerant, not to say insolent, by reason of having been for years protected in desirable assignments in Washington, mainly, as many are, through the baneful instrumentality of social influence rather than real merit, which in this great capital too often makes and unmakes men, to the manner in which, during the fall of 1886, the will of Congress was set aside, and the execution of its act in appropriating \$187,500 for the continuance of work on the canal and locks at the Cascades of the Columbia suspended, unjustifiably, to the great detriment of the people's interest, and to fix, if we can from the record, the just responsibility for this high-handed, unjustifiable, and wholly illegal act upon the official or officials justly chargeable therewith."

The administrative commissions, particularly those in charge of the Mississippi and Missouri River improvements, made up chiefly of expert engineers, fare no better. Their plans are rejected, their estimates cut down, their members



assailed. The bill of 1887 takes pains to ignore the Missouri River Commission. In fact, all commissions and all secretaries are considered servants of Congress.

The secretaries are at least not appointed or removable by Congress, but by the third member of the legislative body. We left H. R. 10419 waiting for the President's signature; it waits still. In the absence of any power to veto items in appropriation bills, a power repeatedly suggested in Congress of late, he exercised the one possible check on bills containing a mixture of good and bad provisions, and on bills which reach him too late for examination. As Congress adjourned before ten days had elapsed, it did not become a law.

Let us sum up the brief existence of H. R. 10419: it was prepared by a laborious committee, and introduced by an honest chairman; it contained some provisions good and useful; and some needless, wasteful, and badly applied. There was opportunity for fair debate in the House. The Senate loaded it with amendments, some of them iniquitous; and the House conferees yielded to them. It was passed because a majority of the members of both Houses desired specific appropriations, which could not be obtained without voting the whole bill; and because, in the judgment of many members, the River and Harbor bills are reasonably free from objection. It failed because it reached the President on the night before the adjournment of Congress, with a hundred and five other bills, the whole carrying seventy-five million dollars of appropriations.

NOTE. I am under obligation to Col. Gillespie and Major H. M. Adams of the Engineer Corps, and to Senator Hoar, for pointing out some errors of fact in the paper as originally read. Due connections have been made in each case.

The third and last paper of the joint session was on "The Study of Statistics in American Colleges," by Colonel Carroll D. Wright, Commissioner of the U. S. Bureau of Labor. This paper will be printed in full among the "Publications of the American Economic Association." It was highly suggestive to students of history as well as to students of political economy. Colonel Wright showed that statistics

form one of the most interesting and profitable lines of inquiry that can occupy students of historical and political science. Statistics, if properly collected, are history in the most concrete, accurate, and imperishable form. The results of the census of any given decade, when cast into Arabic numerals, or simple mathematical tables, will endure, when word-tablets have been dashed in pieces by historical criticism. Colonel Wright's plea was not alone for the teaching of statistical science in our higher colleges and universities, but also for a vital connection between higher political education and practical civil service. He said: "I would urge upon the Government of the United States and upon the Governments of the States, the necessity of providing by law for the admission of students that have taken scientific courses in statistics as honorary attachés of, or clerks to be employed in the practical work of, statistical offices." He also urged the Government-training of educated young men for the consular and diplomatic service, and for other branches of practical administration.

The following extracts from Colonel Wright's paper will prove specially interesting to members of the American Historical Association.

### **Extracts from Col. Wright's Paper.**

Last year I had the honor to address the American Social Science Association upon popular instruction in social science, advocating the teaching in the public schools of the elementary principles of social science, comprehending those things which are most essential in the conduct of life, in the preservation of health, and in the securing of good order. The Association discussed the practicability of teaching social science in our higher institutions of learning. The suggestion that the school and the college be utilized for propagating the science was met with but one objection of any moment. This objection was that in the colleges and schools the whole time is now exhausted in teaching the branches of human knowledge already established as a part of the curricula of such schools; an excellent objection

from a narrow point of view, but a thoroughly inadmissible objection from a point of view which takes in the development of the human race on the best basis and on a high standard. It was met by the counter-statement that if there is no time in the ordinary college to teach all that the college now teaches, and devote a few hours per week to social science, and all that social science means, so far as teaching is concerned, then drop something else and introduce the social science. But nothing need be dropped in order to teach social science in colleges and schools of the country. Now, the only objection which I anticipate to the teaching of statistics in our colleges is the same that was made to the proposition to teach social science generally in such institutions, that there is no room for the introduction of instruction in the new science. To my own mind this objection is not only trivial, but of no account whatever in the practical working of institutions of learning. Every well appointed college has its chair of political economy, and this department can be broadened sufficiently to take in statistical science, without impairing efficiency in this or any other department. If this cannot be done, then I would say to the colleges of America that the institutions which soonest grasp the progressive educational work of the day will be the most successful competitors in the race. That college which comprehends that it is essential to fit men for the best administrative duties, not only in government, but in the great business enterprises which demand leaders of as high quality as those essential for a chief magistrate, will receive the patronage, the commendation, and the gratitude of the public. The college or the university which comprehends the demand of the day and institutes new forms of degrees to be conferred upon the men and women specially qualified in special science, is in the van. Why should there not be a degree for sanitary science? Why should there not be a degree for social science? Doctor of Philosophy is not enough; it means nothing in popular estimation. The Doctor of Philosophy must understand various things; must be

taught and thoroughly trained in the branches necessary to secure the degree of Doctor of Philosophy, but he may know nothing of other branches of human knowledge, except in the most incidental way, which are so essential to fit him for the best administrative duties. The organization of industry demands the very highest type of mind. I sometimes think that the great industrial chieftains of the world are far superior in their capacity, and in their general comprehensive ability, to the great statesmen, to the great leaders of politics, and the great lights that carry nations through crises even. The men who are the best trained, who have learned the practical work of special sciences, are the ones that are guiding the people, and so the colleges or the universities which grasp these things, introducing the teaching of statistical science along with all the other great features of social science, including the branches which bring knowledge nearest to the community itself, are the colleges which will secure success; and not only success in a pecuniary point of view, but success in that grander field of the best work for the race. I urge, therefore, that our American colleges follow the example of European institutions. I would urge upon the Government of the United States, and upon the Government of the States, the necessity of providing by law for the admission of students that have taken scientific courses in statistics as honorary attachés of, or clerks to be employed in the practical work of, statistical offices. This is easily done without expenditure by the government, but with the very best economic results.

We take a census in the United States every ten years, but as a rule the men that are brought into the work know nothing of statistics; they should be trained in the very elementary work of census-taking and of statistical science. How much more economical for the Government to keep its experienced statisticians busily employed in the interim of census-taking, even if they do no more than study forms, methods, and analyses, connected with the presentation of the facts of the preceding census. Money would be saved, results would be more thoroughly appreciated, and problems would be solved.

Our State and Federal Governments should be vitally interested in the elevation of statistical work to scientific proportions, for the necessary outcome of the application of civil-service principles to the conduct of all governmental affairs lies in this, that as the affairs of the people become more and more the subjects of legislative regulation or control, the necessity for the most accurate information relating to such affairs and for the scientific use of such information increases.

The extension of civil-service principles must become greater and greater, and the varied demands which will be created by their growth logically become more exacting, so that the possibilities within the application of such principles are therefore not ideal but practical in their nature. And these potentialities in the near future will enhance the value of the service of trained statisticians.

The consular and diplomatic service, as well as other fields of Government administration, come under this same necessity. The utilization of the consular service for original investigations creates in itself a wide-reaching statistical force, and one which should be competent to exercise its statistical functions with all the accuracy that belongs to science. So Government should supplement college training with practical administrative instruction acquired through positive service in its own departments.

This appeal that statistical science be taught in our colleges comes to this Association more forcibly than to any other. The beginning which has been made in this direction in this country is honorable indeed. Shall it be supplemented in the great universities and leading colleges of America? Do not think for a moment that if the teaching of statistical science be incorporated in our college courses the country will be flooded with a body of statisticians. There is enough work for every man who understands statistical science. He need not be employed by Government. The most brilliant achievements of the European statisticians have been secured in a private or semi-official way. The demand will equal the supply, and the demand of

the public for statistical knowledge grows more and more positive, and the supply should equal the demand.

General Walker, in a letter in 1874, said: "The country is hungry for information; every thing of a statistical character, or even of a statistical appearance, is taken up with an eagerness that is almost pathetic; the community have not yet learned to be half skeptical and critical enough in respect to such statements." He can add: Statistics are now taken up with an eagerness that is serious.

"Know thyself" applies to nations as well as to men; and that nation which neglects to study its own conditions, or fears to study its own conditions in the most searching and critical manner, must fall into retrogression. If there is an evil, let the statistician search it out; by searching it out and carefully analyzing statistics, he may be able to solve the problem. If there is a condition that is wrong, let the statistician bring his figures to bear upon it, only be sure that the statistician employed cares more for the truth than he does for sustaining any preconceived idea of what the solution should be. A statistician should not be an advocate, for he cannot work scientifically if he is working to an end. He must be ready to accept the results of his study, whether they suit his doctrine or not. The colleges in this connection have an important duty to perform, for they can aid in ridding the public of the statistical mechanic, the man who builds tables to order to prove a desired result. These men have lowered the standard of statistical science by the empirical use of its forces.

*The statistician writes history. He writes it in the most concrete form in which history can be written, for he shows on tablets all that makes up the commonwealth: the population with its varied composition; the manifold activities which move it to advancement; the industries, the wealth, the means for learning and culture, the evils that exist, the prosperity that attends, and all the vast proportions of the comely structure we call State. Statistical science does not use the perishable methods which convey to posterity as much of the vanity of the people as of the reality which*

makes the commonwealth of to-day, but *the picture is set in cold, enduring, Arabic characters, which will survive through the centuries unchanged and unchangeable by time, by accident, or by decay.* It uses symbols which have unlocked to us the growth of the periods which make up our past—they are fitting and never changing symbols by which to tell the story of our present state, that when the age we live in becomes the past of successive generations of men, the story and the picture shall be found to exist in all the just proportions in which it was set, with no glowing sentences to charm the actual and install in its place the ideal; with no fading colors to deceive and lead to imaginative reproduction, but symbols set in dies as unvarying and as truthful in the future as in the past. The statistician chooses a quiet and may be an unlovely setting, but he knows it will endure through all time.

#### Reception at University Hall.

After the exercises in Sanders' Theatre, the members of the two Associations and ladies accompanying them were received in University Hall by the professors and instructors in history and political economy of Harvard University. A pleasant hour was spent in social ways. Refreshments were served in one of the rooms of University Hall, and the visitors were well pleased with the hospitality extended to them by friends in Cambridge. Both Associations returned to Boston at an early hour for rest and preparation for the closing evening session at The Brunswick and at the Massachusetts Institute of Technology.

#### EVENING SESSION.

TUESDAY, May 24, 1887.

The American Historical Association reassembled for a separate and closing session on Tuesday evening, at 8 o'clock, in its pleasant parlor at The Brunswick. Mr. Winsor presided. The first paper of the evening was upon the subject of "The Government of London," by Professor Arthur M. Wheeler, of Yale University. A good map was used to show the topography of the city and its various sur-

rounding parishes. The following is an abstract of the paper as presented :

### **Abstract of Professor Wheeler's Paper.**

The paper on "The Government of London" described briefly the various municipal institutions under which Londoners are supposed to govern themselves at present, pointed out the existing evils, and discussed the reforms that have been proposed. The chief evil is the existence of a very large number of public and private bodies, each independent of the other, all of which are performing municipal functions, and over which there is no one body to exercise any effectual control.

By far the most important of these bodies are the City Corporation and the Metropolitan Board of Works. The authority of the Corporation is derived from a succession of electors, 120 in number, obtained in early times for a money consideration from needy kings. Precisely what its powers and duties under these elections are it is difficult to say, for their language is archaic and often very conflicting. The jurisdiction of the Corporation extends over what is technically known as "the City," which is relatively a very small area of only about one square mile in extent, with a population of about 50,000. But as this area lies in the heart of London, and probably contains ten times more wealth than any other equal space on the face of the globe, it is evident that the City and its Corporation are an important factor in the government of London, and especially in the matter of municipal reform.

The City possesses an enormous "estate," acquired long ago by gift or purchase, the increase of which ought to go to the support of the poor and to other charitable objects. The Corporation, however, claims a large portion of this estate as its own private property, and uses it for its own purposes, one of which is to prevent, if possible, any interference with its affairs, and, above all, to delay reform.

The Metropolitan Board of Works was established by act of Parliament in 1855. Its authority extends over what is



known as "the Metropolis," an area containing one hundred and twenty-three square miles, with about four millions of people. At the time this body was constituted, Metropolitan London was in a state of chaos. As the population in the sixteenth century began to overleap the city walls and spread into the adjacent districts, the City Corporation made no effort to extend its authority, mainly, perhaps, because the city was surrounded by manorial estates, the holders of which possessed exclusive jurisdiction. The consequence was that each outlying district, as it filled up with people, was left entirely to itself, and was without any organization, except the old parochial one which was utterly unsuited to an urban population.

Into this chaos the Metropolitan Board introduced some degree of order. It was constituted at first to construct a system of arterial drainage for the whole of London, including the City; but various other duties have been laid upon it by successive acts of Parliament, until now the limit of its capacity has been reached. It is not elected directly by the ratepayers, is not strictly speaking a representative body, and therefore does not possess the confidence of the people.

The Board and the Corporation are rivals, and neither is willing that any municipal work, however pressing, should be done by the other, the Lord Mayor and the Chairman of the Board being as two kings of Brentford on one throne. Neither of the two bodies has any authority over the numerous local bodies, such as the Vestries and District Boards; there is often a conflict of jurisdiction; much work is neglected because each authority asserts that it belongs to the other, and also much work is done poorly, or at an extravagant cost.

London is particularly badly off as compared with other English cities in respect to her water and gas supply; for these articles of prime necessity to urban life, she is at the mercy (except for gas in "the City") of private companies who furnish them of inferior quality, in insufficient quantity, and at prices to suit themselves. In Manchester, Liv-

erpool, Glasgow, etc., the town corporations supply gas and water at a cost far below London prices ; and the only reason why Londoners cannot enjoy the same advantage is that they have no single authority, elected by themselves, and having jurisdiction over the entire capital.

The remedy for all these evils, and many others which have not been noticed, is the constitution, by act of Parliament, of such an authority. The suggestion, which has often been made, that London be divided into ten or more independent cities, each with a separate corporation, would simply perpetuate the existing evils. What is wanted is one supreme central authority ; and this might usefully have various local bodies associated with it and working under its direction and control. This was the scheme which was embodied in the government bill of 1884, which is the latest measure that has been brought forward ; and although that bill was defeated by the combined opposition of the Corporation and the Board of Works, it is certain that a measure constructed on similar principles will ultimately be successful, and that at no distant day.

It ought to be added, perhaps, that much as London has had, and still has, to complain of in the way of municipal corruption, incapacity, and ignorance, she has never even approximated to the hideous experience of some American cities, and especially of New York.

The second paper of the evening session was by Charles J. Stillé, LL.D., of Philadelphia. His subject was " Religious Liberty in Virginia, and Patrick Henry." The paper aroused an interesting discussion, in which Dr. Charles Deane and ex-President Caldwell, formerly of Vassar College, now of Providence, participated. The text of the paper follows :

### **Dr. Stillé's Paper on Religious Liberty in Virginia.**

In the Proceedings of the third meeting of the American Historical Association held at Washington in April, 1886, is to be found a paper read by the Hon. Wm. Wirt Henry, in which he claims that Virginia was " the first State in the

history of the world to pronounce the decree of *absolute divorce* between Church and State, and to lay as the chief corner-stone of her fabric of government the precious stone of religious liberty, which had been rejected by the builders."

Mr. Henry bases this claim upon the sixteenth section of the Bill of Rights adopted by the Convention of Virginia which assembled in June, 1776, to form a new Constitution for that State. This section, as it was finally amended by Mr. Madison, is in these words: "That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force and violence; and therefore all men are equally entitled to the free exercise of religion according to the dictates of conscience, and that it is the mutual duty of all to practise Christian forbearance, love, and charity towards each other."

It is to be observed that a Bill of Rights is not in itself a law, but is merely a declaration of what the law on a given subject ought to be when the statute concerning it shall be subsequently enacted. It does not repeal old statutes nor make new ones, and until a change is made the old laws remain in force. Moreover, the definition of religious liberty in this section of the Bill of Rights is a very meagre and incomplete one if we compare it with the principle as it has been understood and practised in this country under legal sanctions during the past century.

It has been supposed hitherto, upon the authority of Mr. Jefferson, that the Bill of Rights in Virginia was drafted by George Mason, but Mr. Henry says that the section referring to the relations between Church and State was the work of his ancestor, the famous Patrick Henry. It is natural that Mr. Henry, with this section before him in the handwriting of his ancestor, should be moved by filial pride to claim for Governor Patrick Henry the honor of having laid, as he well calls it, "the chief corner-stone" not only of the fabric of the government of his native State, but of that of all the States composing the American Union. With no

desire to offend so respectable a sentiment, I am forced to say that the claim thus made for Virginia that she established, first of all the nations in Christendom, the principle of religious liberty, seems historically inexact.

The claim made by Mr. Wm. Wirt Henry is a very far-reaching one. It is nothing less than this: that Virginia, through the agency of Mr. Patrick Henry, introduced as a practical rule of government into her Constitution, in June, 1796, a principle which, up to that time, had been wholly unknown and untried in the legislation of any Christian country in the Old or the New World since the days of the Emperor Constantine, namely, the principle of religious liberty as distinguished from that of religious toleration. Religious toleration, more or less restricted, according to the necessities of the case, has been known and practised since the Reformation in all communities, European and American, where the population has been divided between Catholics and Protestants, and even where different Protestant sects have existed in the same country, but the principle of *religious liberty* (which is a very different thing, and which we claim as a peculiarly American product), at the beginning of our Revolution, found no place in any code of laws in any part of Christendom, and the theory upon which it is based was maintained only by advanced philosophers. Before the year 1776 closed, this principle in its fullest meaning and application was found in the Constitution of many of the States, but the State which led in this beneficent work was not Virginia, but Pennsylvania, and the immortal honor of having for the first time since the official recognition of Christianity by the Roman law placed the most sacred of all social rights—the right of religious liberty—under the sanction and guaranty of the fundamental Constitution of the State, belongs not to Patrick Henry, but to Roger Williams and to Benjamin Franklin and his colleagues in the Pennsylvania Convention of 1776.

A brief review of the legislation of Virginia immediately following the adoption of her Constitution and Bill of Rights will make this matter very plain, and show that there

was no intention of establishing by the Bill of Rights such religious liberty as we now enjoy. In the first place we must settle upon a definition of religious liberty, and then we shall be able to ascertain how far this legislation of Virginia was consistent with its terms. Religious liberty, it has been said, "consists in the right guaranteed by the laws of a country to each one of its citizens to maintain and propagate any form of religious worship he may think proper, provided it is not in conflict with the fundamental ideas upon which the civil community is based. It includes protection for worship and property, and recognizes the right of religious association for such objects,"

The first legislature of Virginia which met after the adoption of the Constitution and the Bill of Rights began its sessions in October, 1776. Its most pressing business was to remodel the colonial laws of the State so that they might be in harmony with the principles of the new Constitution. In no State were these colonial laws in regard to all subjects, both civil and ecclesiastical, so repugnant to the republican doctrines which had been declared in the Constitution as in Virginia, for nowhere had the illiberal part of the English law been so faithfully copied. Many of her statesmen, who had voted with generous fervor for the broad principles of republican liberty when they were laid down in general terms in the Constitution, hesitated when called upon to apply them in practical legislation for the reform of specific abuses. Mr. Jefferson seems to have been the master-spirit in the legislature on the republican or liberal side, and he was aided or opposed in his measures by men who bear some of the most distinguished names in our political history. He had resigned his seat in Congress to become a member of this body, and he had a commanding influence in all the committees charged with the duty of reporting on the revision of the laws. What he did in regard to the reform of the code in Virginia does not concern us here, but the condition in which he found that State, hampered by religious disabilities, and the efforts which he made during the nine years between 1776 and 1783 to

remove them, are clearly pointed out in his "Notes on Virginia," and in his "Autobiography," and they form the best commentary on the statement of Mr. Wm. Wirt Henry that during this time religious liberty was fully recognized in that State, because it was formally declared in the Bill of Rights drawn up by Patrick Henry in 1776, that liberty of religious worship was a true principle of civil government.

In his "Notes on Virginia," Mr. Jefferson speaks of the religious intolerance which prevailed there in colonial days and when he began his labors in October, 1776, to repeal the laws which sanctioned it. He tells us of the statutes which punished the Quakers, which deprived any one who disbelieved in the Trinity or in the divine inspiration of the Scriptures of the custody of his children and of his capacity to receive any gift or legacy, which made heresy, by an Act passed in October, 1777, an offence at common law, punishable by the writ, "*De heretico comburendo*," etc. He goes on to tell us in his "Autobiography" that "the first republican legislature which met in October, 1776, and, of course, after the adoption of the Bill of Rights, was crowded with petitions to abolish this spiritual tyranny. After the most desperate contests in the committee to which these petitions were referred," he says, "we prevailed so far only as to repeal the law which rendered criminal the maintenance of any religious opinions, the forbearance of repairing to church, or the exercise of any mode of worship, and farther to exempt Dissenters from contributions to the Established Church. . . . But our opponents carried in the resolutions of the committee (November 19) a declaration that religious assemblies ought to be regulated; that provision ought to be made for continuing the succession of the clergy; and, farther, the question was reserved for future decision whether a general assessment or tax should not be laid on each citizen for the support of the pastor of his choice." Of this general assessment, George Washington, Richard Henry Lee, and Patrick Henry himself were strenuous supporters. Mr. Henry, says his biographer, Mr. Wirt (pp. 260-263), "gave his warmest support to the resolutions

on which the Bill for a general assessment was founded. If he did not vote for it, it was because when the Bill passed he was not a member of the House, having been chosen Governor." In 1785, Mr. Jefferson proposed his famous Bill for establishing religious freedom. It was this Bill which he desired should be engraved upon his tombstone at Monticello, and which gave the principle of religious liberty the force of a law in Virginia. It declares that no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities. Such was the opposition to this Bill in the Legislature that it was not until the next year that it was passed, and the principle of a general assessment abandoned, a result due chiefly to the persistent efforts of Mr. Madison, in the absence of Mr. Jefferson, who was then Minister in France. In 1799, the work of religious reform, begun by the adoption of the Bill of Rights in 1776, was, after a fierce struggle of twenty-three years, completed, the legislature in that year repealing all laws for the benefit of religious societies. It would appear, therefore, that unless it is possible to conceive of the co-existence of religious liberty with laws which maintain the right of the State to regulate religious belief, and to levy taxes for its support, no such principle had the force of law in Virginia, until the year 1786, and that religious liberty in the sense now understood and practised everywhere in this country was not established there until the close of the century.

In Pennsylvania the Convention which met in the summer of 1776 adopted (principally, it is said, through the influence of Dr. Franklin, who was the president of that body) the following article of her Constitution in regard to religion, and the relations of the Commonwealth to it:

"All men have a natural and inalienable right to worship

Almighty God according to the dictates of their own consciences and understanding. No man ought or of right can be compelled to attend any religious worship, or erect or support any place of worship, or maintain any ministry contrary to or against his own free will and consent; no man who acknowledges the being of a God can be justly deprived or abridged of any civil right as a citizen on account of his religious sentiments or peculiar mode of worship. No authority can or ought to be vested in or assumed by any power whatever that shall in any case interfere with or in any manner control the right of conscience in the free exercise of religious worship."

This article in her Constitution settled at once and forever the question of religious liberty in Pennsylvania. It cut up by the roots every trace of intolerance and privilege in the provincial system. No further enactments on this subject were ever needed, and none were ever proposed. She anticipated the action of Virginia in this matter by nearly ten years. She set the example to her sister States of boldly adopting what was then considered "the noblest innovation of modern times," but what has since proved both to our own countrymen and to all English-speaking people the most cherished and characteristic peculiarity of their political life.

The third paper of the evening was "The American Chapter in Church History," by Dr. Philip Schaff, of Union Theological Seminary, New York. This paper, since its reading in Boston, has been elaborated and printed in full among the papers of the American Historical Association, as the concluding part, No. 3, Volume II. The following is a very brief abstract of the original paper as presented to the American Historical Association:

#### **Abstract of Dr. Schaff's Paper.**

A free church in a free state, or a self-supporting and self-governing Christianity in independent but friendly relation to the civil government, is the distinctive character of



American Christianity. It differs from a hostile relation of the state to the church in the first three centuries; from the heriarchical rule of the church over the state in the middle ages; and from the Erastian rule of the state over the church in modern Europe. It differs also from mere toleration, and still more from the red-Republican or infidel theory of the relation of church and state. In America, the church expects nothing from the state but the protection of her rights and property by the laws of the land. She claims full liberty to manage her own affairs at her own expense, and to worship according to the Word of God and the dictates of conscience. Toleration is a concession, and may be withdrawn. Liberty is a principle, and is inalienable. Religious liberty is guaranteed by the First Amendment of the Federal Constitution, which forbids Congress forever to establish a religion, or to abridge the free exercise thereof. Most States give the same guaranty in their Constitutions.

The doctor explained at some length the meaning of this important amendment, and showed that it was due, not to indifference and infidelity, but to respect for Christianity as the professed religion of the American people, with which Congress has no right to interfere. He quoted from Washington, Justice Story, Bancroft, and De Tocqueville, in support of this historical interpretation. The separation of church and state is no separation of government from religion. Our government is not inconsistent, but acts in its own best interest when it maintains monogamy as the normal form of marriage, protects Sunday as a civil day of rest, appoints chaplains to Congress, and to the army and navy, and exempts church property from taxation. The separation is not absolute. Church and state meet and co-operate on questions of public morality, and the preservation and promotion of our Christian civilization. The progress of history is a progress of liberty and self-government in church and state. The freedom of the state requires for its moral support the freedom of religion, and cannot be maintained long without it. For religion regulates individual and domestic life, feeds every virtue, builds up character, and furnishes

the men who are best capable to rule the land, to maintain truth and justice, and to promote national prosperity.

After the discussion of Dr. Schaff's paper, the following brief report of Historical Studies in Canada, prepared by George Stewart, Jr., D.C.L., President of the Literary and Historical Society of Quebec, was presented by Mr. Winsor, President of the American Historical Association :

### **Mr. Stewart's Notes on the Present Condition of Historical Studies in Canada.**

In the notes submitted to the American Historical Association last year, brief reference was made to the scope and aims of the Royal Society of Canada. The Society allows delegates from all the principal historical and scientific institutions in the country to attend its annual meetings, take part in the discussions, read papers, and present reports of their several bodies. These reports are valuable, as they show at a glance the progress in historical and scientific research which has been made in the Dominion during the year. The historical societies thus affiliating with the Royal Society, are the Literary and Historical Society of Quebec, the Numismatic and Antiquarian Society of Montreal, the Historical Society of Montreal, the Hamilton Association of Hamilton, Ontario, the Institut Canadien, of Ottawa, the Institut Canadien of Quebec, the Historical and Scientific Society of Manitoba, the Historical Society of Nova Scotia, and the Historical Society of New Brunswick. Very many papers of a valuable character, relating to the early history of Canada, were read before these bodies during the year. Most of the institutions named issue an annual report, and occasionally publish memoirs. There were read before the Royal Society last year, in Sections 1 and 2, and ordered to be printed, the following papers. In Section 1 :

1. *Le Pionnier*, par Louis Frechette, LL.D.
2. *Le Golfe Saint-Laurent (1600-1625)*, par Benjamin Sulte.
3. *Un Pèlerinage au Pays d'Évangéline*, par L'Abbé Casgrain.
4. Oscar Dunn, par A.D. De Celles.
5. *Les Pages Sombre de l'Histoire*, par J. M. Le Moine.

Before Section 2 the following papers were read :

1. The Right-Hand and Left-Handedness, by Daniel Wilson, LL.D., F.R.S.E.
2. Local Government in Canada : An Historical Study, by J. G. Bourinot, LL.D., F.S.S.
3. Historical Record of the St. Maurice Forges, the Oldest Active Blast-Furnace on the Continent of America, by F. C. Würtele.
4. Brief Outlines of the Most Famous Journeys in and about Rupert's Land, by Rev. George Bryce, LL.D.
5. The Lost Atlantis, by Dr. Daniel Wilson.
6. Some Notes on Canadian Ethnology, by John Reade.
7. Some Prehistoric Remains in Manitoba, by Chas. N. Bell, F.R.G.S.
8. The Wilderness Missions of Canada, by Rev. W. H. Withrow, D.D.

The Royal Society enjoys from the government of Canada an annual grant of five thousand dollars, which is employed in publishing the proceedings and papers of the Society.

There was founded last winter, in the city of Montreal, a Society for Historical Studies. It arranged to meet once a fortnight from 22d December, 1886, to 1st June, 1887. The following programme will give an idea of the plan of the Society, and the scope of its first year's work :

*Canadian History.*

First period, 1497-1608, 22d December, 1886, Mr. John Lesperance ; 2d period, 1608-1642, 12th January, 1887, Mr. C. S. Campbell ; 3d period, 1642-1682, 26th January, 1887, Mr. W. D. Lighthall ; 4th period, 1682-1699, 9th February, 1887, Mr. Henry Mott ; 5th period, 1699-1725, 23d February, 1887, Mr. W. J. White ; 6th period, 1725-1754, 9th March, 1887, Mr. John Reade ; 7th period, 1754-1760, 23d March, 1887, Mr. Gerald E. Hart ; 8th period, 1760-1784, 6th April, 1887, Mr. R. A. Ramsay ; 9th period, 1784-1812, 20th April, 1887, Mr. W. T. Kerry ; 10th period, 1812-1815, 4th May, 1887, Mr. J. P. Edwards ; 11th period, 1815-1837, 18th May, 1887, Mr. R. W. Boodle ; 12th period, 1837-1841, 1st June, 1887, Mr. George Murray.

Directors for 1887 :—President, Thos. McDougall ; Vice-President, John Reade ; Directors, G. E. Hart and J. P. Edwards ; Secretary-Treasurer, W. J. White.

The Literary and Historical Society of Quebec issued a small edition of Abbé Belmont's "Histoire du Canada," last autumn.

### Communication from Mr. Henry C. Lea.

The following letter, addressed to the President of the American Historical Association, is the best prefatory explanation of the interesting manuscript communicated by Mr. Lea to the Proceedings of the Association at its Boston meeting :

PHILADELPHIA, 2000 WALNUT STREET,

May 21, 1887.

*Justin Winsor, Esq., President American Historical Association :*

DEAR SIR:—Last evening I happened upon a matter which strikes me as possibly of sufficient interest to warrant its communication to the American Historical Association at its meeting next week. I enclose it, with the proviso that, as I make no pretension to familiarity with the details of American history, I would ask you to kindly exercise your discretion, and if the matter has not the novelty which I attribute to it, pray suppress it.

As I wanted the volume in which it occurs—the "Analecta Franciscana," vol. II.—for my history of the Inquisition, just completed, I ordered a Florentine bookseller to send it as soon as issued. It arrived by mail a few days since, and as I observe the license to print it is dated March 22, I presume that my copy is probably the only one which has yet reached this country.

If the original text of the passage translated should be wanted, I can readily transcribe it.

With best wishes for a successful meeting, in which I regret that I cannot participate, I remain,

Very respectfully, etc.,

HENRY C. LEA.

### A Letter Written in the Year 1500 from Hispaniola by a Franciscan Missionary.

As all contemporary allusions to the discovery of America possess interest, it may be worth while to call attention to

one which has just seen the light in a quarter where collectors of Americana would not be likely to look for it. A few weeks since the Franciscans of Quaracchi published in their series, the "*Analecta Franciscana*," the chronicle of Friar Nicholas Glassberger, written in 1508. In his recital of the achievements of his Order he naturally alludes to the two Franciscans who accompanied Columbus on his second voyage, remaining in the West Indies for five years and returning home with two Indian youths, to excite their brethren to renewed efforts to evangelize the newly discovered heathen. The result of this was a more formal mission under Fray Juan de Trassiera, who was sent out with Francisco Bobadilla when the latter replaced Columbus. Of this latter mission I translate Glassberger's account, which, though perhaps it furnishes no exact information of novelty, at least affords a specimen of the reports which circulated throughout Europe. The allusion to Columbus as "a certain admiral" is curious as indicating how slight was the personal impression produced on even his well-informed contemporaries by the great discoverer.

HENRY C. LEA.

PHILADELPHIA, *May 21*, 1887.

"In that year [1500], on the 25th day of August, some brethren of St. Francis, inflamed with divine love, went to the Island of Cadiz, on an island of Spain near the Straits of Seville, and not far from the Columns of Hercules. In twenty-nine days they reached the Island of Spain, and while the ships lay in a certain part of Spain called the port of Santo Domingo, from the ship-master named Domingo, three thousand men were baptized. It is hoped that soon many other large islands will receive the holy baptism. A certain admiral, captain, and chief placed there, illtreating those new men, taking their goods and wives and capturing their virgin daughters, was sent to Spain in chains and was replaced by another.

"There are other islands thus named by the Spaniards. The first is called the Isle of God, because it was discovered by the providence and will of God ; 2d, the Island of Ferdi-

nand, from the King of Spain ; 3d, the Island of Isabella, from the Queen of Spain ; 4th, Spain ; 5th, Hispaniola. The inhabitants are by nature liberal, simple, and kind [pii], but very jealous. They live on bread made from roots having the taste and smell of carrots (vulg. *gelbe Rüben*), and also on maize [surgum], which is a species of millet. The islands are most fertile, but lacking in all quadrupeds except rabbits. Many pairs of animals were brought from Spain, which bred wonderfully, especially pigs. Also vines were brought which bare grapes the same year ; also grains and vegetables. For the rest, the people have no laws or books or letters, ignorant of how they came there, and thinking there were no other men. They believed in another life in which they would be happier, but not knowing how or where. They have great store of wool produced by trees, and yet they went naked ; out of which a Friar, under pressure of necessity, by spinning it, made a gown for himself and his companion. In August their longest day has eighteen hours ; the other days of the year are equal, unless perhaps by two hours. The men are lemon-colored [*coloris citrini*], like the leaves which fall from trees. From the island of Hispaniola the Friars sent letters to the most reverend father, Friar Olivier, the Vicar-General, who had sent them out, which in 1501 he received in the Province of Saxony, giving a copy to us in the convent of Nürnberg, of the following tenor :

“ *To the Most Reverend and Most Worthy Father in Christ, Friar Olivier Maillard, Cismontane Vicar-General of the Order of our Blessed Father Francis :*

“ ‘Most Reverend and Most Worthy Father and Lord ! I send word to your Paternity of the great mercy which God has shown us, for He, who of old was the leader of our fathers through the Red Sea, hath vouchsafed to let us, though unworthy, safely reach these islands, in which there is such a multitude of souls that it is a wonder to relate. But what is more wonderful is that all without exception and with the greatest zeal seek for baptism. Whence is

verified what the Saviour says in the Gospel. The harvest truly is plenteous, but the laborers are few. In a short time, namely while the ships lay in port, three thousand souls received the faith of Christ. Wherefore ought you greatly to rejoice in the increase of the children of Christ, especially through the ministry of your sons. But as you know, most worshipful Father, that it is our profession to increase the faith of Christ in ourselves and our neighbors, with the divine grace of Christ, you should preach and manifest to your sons and subjects that you will show benignant favor to all to whom God has given zeal for their souls, and who will follow the track of the Cross of Christ and come to these islands; bringing this, moreover, before the fathers in the General Chapter, so that without disturbance and scandal of the prelates some brethren from all the Provinces and Custodiate may be assigned to this duty and be sent to these parts, with the blessing of God and of the whole Chapter. And because Fray Francisco Ruyz, who is sent to Spain on account of his infirm health, and that he might help us with the Lord Archbishop [Ximenes] and their Royal Majesties, will give your Paternity a fuller account of all things. Farewell, and pray for me and my children who are with me, who send you many greetings and humbly beg your blessing.

“Given in the island called Hispaniola, this 12th day of October, 1500.”

Olivier Maillard held his General Chapter at Pforzheim June 14, 1501, but Glassberger makes no allusion to any action taken in response to Fray Juan's request. [*Analecta Franciscana*, t. II., pp. 525, 526, ad Claras Aquas, 1887.]

### **Recommendation of Executive Council Ratified.**

The amendment to Article III. of the Constitution, raising the fee for life-membership from \$25 to \$50, was passed at the Washington meeting of the Association, April 29, 1886 (see Secretary's Report, Vol. II., No. 1, page 90). It was then voted that the amendment should go into effect

January 1, 1887. In view of the insufficient notification of members concerning this action, it was recommended provisionally by the Executive Council that the time when the amendment should take effect be extended to June 1, 1887, this recommendation to be subject to the approval of the general Association at its fourth annual meeting. The above proposal was early published in the Secretary's Report of the Third Annual Meeting (p. 50), and the action of the Council, upon explanation to the Association by the Secretary, was duly ratified by vote at its Tuesday evening session, May 24, 1887.

### **Board of Officers for 1887-1888.**

Upon report and recommendation by the Committee on Nominations, the following Board of Officers was chosen by the Association, May 24, 1887, for the ensuing year:

*President*—William F. Poole, LL.D., Librarian of the Newberry Library, of Chicago.

*Vice-Presidents*—Charles Kendall Adams, President of Cornell University, Ithaca, New York; Hon. John Jay, of New York City.

*Secretary*—Herbert B. Adams, of Johns Hopkins University, Baltimore.

*Treasurer*—Clarence Winthrop Bowen, Ph.D., No. 251 Broadway, New York City.

*Executive Council*—(In addition to the above-named officers). Hon. Andrew D. White, Ithaca, N. Y.; Hon. George Bancroft, Washington, D. C.; Justin Winsor, LL.D., Librarian Harvard University; Ex-President Rutherford B. Hayes, LL.D, Fremont, Ohio; Hon. William Wirt Henry, Richmond, Virginia; John W. Burgess, Ph.D., LL.D., Professor of History and Law, Columbia College, New York; Arthur M. Wheeler, Professor of History, Yale University.

### **Report of Committee on Invitations.**

The Committee on Invitations reported the following resolution which was unanimously adopted: Resolved that the thanks of the American Historical Association are



due and are cordially returned in this resolution for the kindness and facilities afforded to its members at their annual meeting in Boston and Cambridge, in May, 1887, by the Faculty of Harvard University, by the President and other representatives of the Massachusetts Institute of Technology, by Wellesley College, by the Trustees of the Museum of Fine Arts in Boston, by the Peabody Museum of American Archæology and Ethnology, by the Massachusetts Historical Society, by the Secretary of the Commonwealth of Massachusetts, by the Board of Directors of the New England Historic-Genealogical Society, by the Bostonian Society, by the Trustees of the Boston Public Library, by the Society for the Collegiate Instruction of Women, and by the Pilgrim Society of Plymouth.

Special letters, conveying the thanks of the Association, were afterwards addressed by the Secretary to representatives of the institutions and societies that had shown special courtesies to the American Historical Association.

### **Historical Excursion to Plymouth.**

On Wednesday, May 25, the American Historical Association and the American Economic Association united in a pilgrimage to Plymouth. As the train approached the town, Mr. Winsor, himself a native of Duxbury and connected with the Pilgrim Fathers by double lines of descent, explained to the visitors the interesting features of the historical landscape. At the station, the visitors were met by Mr. W. T. Davis and other representatives of the Pilgrim Society, at whose courteous invitation the members of both Associations visited Pilgrim Hall and there viewed the remarkable collection of Pilgrim memorials. Mr. Davis explained to his guests the most noteworthy objects in the collection, and narrated many incidents in the early history of Plymouth, upon which he is the chief local authority. Mr. Davis' book on "The Ancient Landmarks of Plymouth" is well known to all antiquaries and students of New England local history. Dr. Charles Deane, who edited Govern-

or William Bradford's manuscript "History of Plymouth Plantation," and Dr. George S. Ellis, President of the Massachusetts Historical Society, supplemented the remarks of Mr. Davis by many original and suggestive comments upon the historical objects preserved in Pilgrim Hall. The topography of the town was a matter of great interest to most of the visitors, who found their devious ways to Cole's Hill and Plymouth Rock, and there discussed, with antiquarian zeal, the mooted questions concerning the original landing of the Pilgrim Fathers. Many of the visitors returned by way of Leyden Street, the central street of the original village of Plymouth, and climbed the steep slope of Burial Hill, which is the natural acropolis of the town, and whence there is a beautiful view toward the harbor and the sea. Here was the site of the old fort which served the first settlers for a church. Hither they marched to meeting in military order and often under arms. The modern pilgrims to Burial Hill read with interest the inscriptions upon the tombstones, and gazed with special reverence upon the monument erected in memory of William Bradford, the first historian of Plymouth Colony and many years its governor. After viewing and reviewing the town from Burial Hill, the visitors made their way in straggling groups to the Court House, to the Registry of Deeds, where the original manuscript records of the Old Colony are preserved. There were found the original plan of the first village streets, the first allotments of land, and many other interesting historical landmarks of early Plymouth. Returning finally to the hotel, the Samoset House, members of both the Historical and Economic Associations, after some pleasant social converse, sat down together to a simple repast, after which there were no speeches. The whole company returned in good spirits to Boston, greeted *en route* by returning sunshine, which dispelled all unpleasant memories of the dashes of rain which had met the modern pilgrims upon their first attempted exploration of Plymouth. From Boston the visiting members of the Historical and Economic Associations soon scattered upon homeward ways.

## TREASURER'S REPORT OF THE AMERICAN HISTORICAL ASSOCIATION.

GENTLEMEN : Your Treasurer has the honor to report as follows :

The RECEIPTS since April 26, 1886, have been

For annual dues for 1886, from 11 members at \$3 each . . . . .	\$ 33 00
For annual dues for 1887, from 299 members . . . . .	897 00
For annual dues for 1888, from 2 members . . . . .	6 00
For life membership fees from 10 members at \$25 each . . . . .	250 00
For dividend of 8% on 4 shares stock National Bank of Commerce . . . . .	32 00
For dividend of 8% on 5 shares stock Bank of America . . . . .	40 00
For received from Messrs. G. P. Putnam's Sons for sales of the Association's publications . . . . .	77 70
<b>Total receipts since April 26, 1886</b>	<b>\$1,335 70</b>
For cash on hand April 26, 1886 . . . . .	1,335 61
<b>Total</b>	<b>\$2,671 31</b>

Boston, May 23, 1887.—We have examined the accounts and vouchers of the Treasurer, and find them correct. We have had the certificates of bank stock placed before us, which represent the investments as set forth in the report.

A. MCF. DAVIS,  
WM. HENRY DAVIS.

Dated Boston, Mass., May 23, 1887.

## EXPENDITURES.

To paid for printing bills, circulars, etc., for postage, stationery, and clerical labor—vouchers 1, 2, 3, 7, 8, 10, 11, 12, 14, 15, and 16	\$171 02
To paid Messrs. G. P. Putnam's Sons for printing the Association's publications—vouchers 4, 5, 9, 13.	574 95
To paid for 5 shares of Bank of America of New York stock at \$173—voucher 17 . . . . .	865 00
To paid bank for collecting checks —voucher 6 . . . . .	3 20
<b>Total expenditures</b>	<b>\$1,614 17</b>
To cash on hand . . . . .	1,057 14
<b>Total</b>	<b>\$2,671 31</b>

<b>ASSETS :</b>	
Cash . . . . .	\$1,057 14
Market value 4 shares National Bank of Commerce . . . . .	720 00
Market value 5 shares Bank of America . . . . .	885 00
	<b>\$2,662 14</b>

Respectfully,

CLARENCE W. BOWEN,  
*Treasurer,*

**Necrology.**

The following brief biographical sketches of members of the American Historical Association have been contributed to its permanent records:

**CALVIN HOLMES CARTER.**

Calvin Holmes Carter, a member of this Association, died at his residence in Waterbury, Conn., September 18, 1887. He was the eldest son of Preserve W. and Ruth (Holmes) Carter, and was born at Waterbury, May 19, 1829. On his mother's side he was descended from the Judds, who were among the first settlers of the town. His preparation for college was mostly with Thomas M. Thompson (Y. C. 1844) of Woodbury, and he graduated at Yale with high standing in 1851. He pursued the study of law partly at the Yale Law School and partly with the Hon. Increase Sumner of Great Barrington, Mass., and opened an office in Waterbury in 1853. He soon after formed a partnership with the Hon. S. W. Kellogg. This connection continued until Mr. Carter was appointed postmaster in 1861. After this, although transacting some legal business, he was not actively engaged in the profession. In 1863 he became the manager of a manufacturing company, and his time was mainly occupied in manufacturing interests during the remainder of his life. He also acted as administrator, executor, trustee, and guardian, and in various other fiduciary relations, for which his legal knowledge, his unswerving integrity, his warm and sympathetic nature, united with great positiveness and firmness of character, especially qualified him.

Mr. Carter always took an active interest in public affairs. He was clerk of the State Senate in 1859, and represented the town in the Legislature in 1883 and 1885, and held various offices of public trust. He was always an open and courageous enemy of jobbery, and a staunch guardian of the public treasury, both in State and local matters. He was a prominent and striking character in the community where he resided. Positive, downright, and imperious, sometimes

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For dividend of 8% on 4 shares stock National Bank of Commerce	32 00
For dividend of 8% on 5 shares stock Bank of America	40 00
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Market value 4 shares National Bank of Commerce	720 00
Market value 5 shares Bank of America	885 00
	\$2,662 14

Respectfully,

CLARENCE W. BOWEN,  
*Treasurer,*

first at Paris and then at the school of Baron Fallenburg at Hofwyl (near Berne), in Switzerland; finally, at the advice of Michael Chevalier, taking a course in the École Central des Arts et Manufactures, where at the end of three years he was graduated, receiving a diploma as a civil engineer.

Mr. Brevoort then made a cursory study of manufactures, and a careful examination of the railroads in England, returning in 1838 to America, and for a year worked in the West Point foundry in which his father was interested. He was then, through the interest of Prof. James Renwick (his uncle), one of the commissioners for the delineation of the northeast boundary between the United States and Canada, appointed one of the assistants in this survey. In 1842 he accompanied Washington Irving, just appointed minister to Spain, to that country as his private secretary and chargé of the legation, but held this position for only about a year, after which he travelled in Spain, and finally returned to New York in 1844.

In 1845 Mr. Brevoort married Elizabeth Dorothea Leferts (born May 4, 1824), daughter of Judge Lefferts of Brooklyn, and removed to that city, where he thenceforth lived. On the death of his wife's father, the care of a large property in real estate devolved upon him, and beyond holding the position of Superintendent of the Astor Library for two years (1876-8) his time was chiefly devoted to this property and to his studies and books.

Mr. Brevoort's range of interest was unusually large. He inherited from his father a fine library of American history, and he continued for many years to enlarge it as well as to collect on other subjects, but partial loss of eyesight and other reasons led him to dispose of the greater part of his books, both by benefactions to public institutions and by private sale, and only a few works remain. His collection of books and specimens of ichthyology went *en bloc* to the Ichthyological Museum in Fulton Market, and it is probable that what remains of his library will be purchased by a public institution in Brooklyn.

Mr. Brevoort was a member of the Board of Regents of

the State of New York, a trustee of the Astor Library, the president for ten years of the Long Island Historical Society, a trustee of Greenwood Cemetery, president of the Society for the Prevention of Cruelty to Animals; a member of the City Charter Convention; of the Board of Education; of the Board of Water-Works; and was honorary, corresponding, or resident member of the American Historical Association, the Lyceum of Natural History (now Academy of Sciences), the American Academy for the Advancement of Sciences, the Archæological Society of Madrid, the Entomological Society of Baltimore, the American Geographical Society, the New England Historical and Genealogical Society, the American Antiquarian Society, National Institute at Washington, the Numismatical Societies of Philadelphia and Boston, and of the State Historical Societies of New York, Massachusetts, Wisconsin, and Pennsylvania.

Mr. Brevoort's writings are few. He aided in the editing of Perry's "Narrative of the Expedition of an American Squadron to the China Seas and Japan" (Washington: 1856), and wrote the portion of it relating to ichthyology, of which he reprinted a few copies with the title of: "Notes on Figures of Japanese Fish," etc., 1856. He wrote the preface to the "Descriptive Memoirs of the Brooklyn Water-Works and Sewers" (New York: 1867), and aided in editing the "Diary of Washington" and the "Narratives of the Career of Hernando de Soto," publications of the Bradford Club of the City of New York. In 1868 he printed "History and Its Sources: An Address Read before the Long Island Historical Society at their Annual Meeting, May 7, 1868." Brooklyn: MDCCCLXVIII. He contributed a series of articles to the *American Journal of Numismatics* on "Early Spanish and Portuguese Coinage in America," which was separately printed "Boston: 1885" and in 1874 printed "Verrazano the Navigator, or Notes on Giovanni da Verrazano and on a Planisphere of 1529 illustrating his American Voyage in 1524," which he had previously read before the American Geographical Society. Other-

wise his writings are confined to the magazines, the most notable being his article on the "Discovery of the Remains of Columbus," in the *Historical Magazine*. Biographical sketches of him are given in Appleton's "Cyclopædia of American Biography," Stiles' "History of Brooklyn" (New York: 1884), and "The Public Service of the State of New York," 1883.

He died Wednesday, December 7, 1887, in the 70th year of his age, leaving a widow and one son.

PAUL L. FORD.





# LIST OF MEMBERS

## OF THE

### AMERICAN HISTORICAL ASSOCIATION.

\* Life Members.

† Deceased.

\*Adams, Charles Francis, Esq., 23 Court Street, Boston, Mass.  
 Adams, Brooks, Esq., Quincy, Mass.  
 Adams, Charles Kendall, President of Cornell University, Ithaca, N.Y.  
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 Adams, Professor Henry Carter, University of Michigan, Ann Arbor, Mich.  
 \*Adams, Herbert B., Johns Hopkins University, Baltimore, Md.  
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- \*Bancroft, Miss Jane M., École des Hautes Études, Paris, France.
- Barrows, Samuel J., Editor the *Christian Register*, 141 Franklin Street, Boston, Mass.
- \*Barton, Edmund Mills, Esq., Librarian American Antiquarian Society, Worcester, Mass.
- Baxter, James P., Esq., Portland, Me.
- †Baxter, Hon. Wittier J., Jonesville, Hinsdale Co., Mich. Died Feb. 6, 1888.
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- Beardsley, Rev. E. E., D.D., LL.D., New Haven, Conn.
- Beardsley, H. M., Esq., Elmira, N. Y.
- Beckwith, Hiram W., Esq., Danville, Ill.
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- \*Green, Samuel S., Esq., Librarian Free Public Library, Worcester, Mass.
- \*Greene, Colonel Jacob L., Hartford, Conn.
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- Hart, Dr. Albert Bushnell, Harvard University, Cambridge, Mass.

- Hart, Charles Henry, Esq., 204 South Fifth St., Philadelphia, Pa.  
 Hart, Prof. Samuel, D.D., Hartford, Conn.  
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 Hayes, Hon. Rutherford B., Fremont, O.  
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 Hebard, Miss Bertha, Wellesley College, Wellesley, Mass.  
 \*Hemenway, Mrs. Mary, 40 Mt. Vernon St., Boston, Mass.  
 Henry, Hon. William Wirt, Richmond, Va.  
 Higginson, Colonel Thomas Wentworth, Cambridge, Mass.  
 Hill, Hamilton Andrews, Esq., Boston, Mass.  
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N. B.—Corrections in the above list  
should be sent to the Secretary.





REPORT OF THE PROCEEDINGS  
OF THE  
AMERICAN HISTORICAL ASSOCIATION

WASHINGTON, D. C., DECEMBER 26-28, 1888



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OF THE  
AMERICAN  
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IN  
WASHINGTON, D. C., DECEMBER 26-28, 1886

BY  
HERBERT B. ADAMS  
Secretary of the Association

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## SECRETARY'S REPORT

OF THE

### PROCEEDINGS AT THE FIFTH ANNUAL MEETING,

WASHINGTON, D. C., DECEMBER 26-28, 1888.

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DURING the Christmas holidays the American Historical Association held its fifth annual reunion. The Federal City was the place chosen for the Convention. The attendance was the largest in the five years' history of the Association, for the number considerably exceeded that registered in Boston and Cambridge in the month of May, 1887, when both the Historical and Economic Associations assembled at the same head-quarters. Experience has demonstrated that these two organized bodies are now so large and so well-supported that they can no longer profitably convene at the same time and in the same city. Each is strong enough to go alone. On the very days when the Historical Association met in Washington the Economic Association was holding highly successful meetings in Philadelphia.

Among the members of the American Historical Association present at the Washington meeting were the Hon. George F. Hoar, Senator from Massachusetts, and James Phelan, member of the House of Representatives from Tennessee, and author of the new history of that State. These gentlemen are deserving of special honor by the Associa-

tion for their efficient service in securing the passage through Congress of the charter of the Association. Other members of Congress and many persons connected with departments of the General Government were present at various meetings of the Association. Numerous members resident in Washington were in attendance, notably the Hon. J. C. Bancroft Davis, who took part in one of the discussions; Hon Horatio King, John D. King, William C. Rives, Rear-Admiral Jenkins, General R. D. Mussey, Capt. George M. Wheeler; Dr. J. M. Toner, of the Congressional Library; Dr. George B. Loring, who discussed one of the papers; Dr. G. Brown Goode, Assistant Secretary of the Smithsonian Institution, to whose courtesy and coöperation the success of our meetings in the National Museum is largely due; A. Howard Clark, of the Museum; Frederic A. Bancroft, the Librarian of the State Department, who showed our visiting members polite attention. Most appreciative of the kindness of Washington librarians was a little party composed of Douglas Brymner, the distinguished archivist from Ottawa; Ernest Cruikshank, the historian of Province Ontario, who had come to Washington for a prolonged study of American records of the War of 1812; and Mr. B. Fernow, the Keeper of the Archives of the State of New York at Albany; accompanied by a select company of young professors and graduate students from the West and South. Perhaps the rarest opportunity of the entire Convention was this rummaging through the record-offices of Washington by a few men who appreciated the historical attractions of Washington. It may be remarked that our Canadian friends and associates made some important discoveries among our neglected and scattered papers; and that, from the able description of the Canadian Archives by Mr. Brymner, the Dominion Archivist, our American Historical Association learned what scientific order can be brought out of a chaos of state papers by well-directed effort with only moderate government aid.

The educational interests of the country were well represented at the Washington Convention of Historical

Specialists. Present at every meeting were officers of the Smithsonian Institution, the National Museum, and the Bureau of Education. No less than five college presidents attended the various sessions and three took part in the exercises. To President James C. Welling, of the Columbian University, the Association is under special obligation for his active coöperation and the use of the large lecture-hall of that institution during the three evening sessions. Conspicuous among university representatives by reason of seniority as well as vigorous participation in historical debate was Dr. C. J. Stillé, formerly Provost of the University of Pennsylvania, author of the recent and interesting sketch of Poinsett. President Charles Kendall Adams, of Cornell University, one of the original founders of the Association, was at the Washington meeting elected President for the ensuing year. Among men of like academic distinction were Dr. Merrill Edward Gates, President of Rutgers College, and Lyon G. Tyler, the new President of William and Mary College, now happily revived by the State of Virginia.

There were college professors from New England, New York, the West, and the South. Justin Winsor and John H. Gray, the successor of Mr. Laughlin, represented Harvard University; Dr. J. F. Jameson, the successor of Professor Andrews, came from Brown University, and Professor Ferguson, from Trinity College, Hartford. Among the representatives of New York institutions were Professor Lucy M. Salmon, of Vassar College; Professor W. M. Postlethwaite, of West Point Military Academy; Dr. Henry M. Baird, of the University of the City of New York; Dr. Philip Schaff, the successor of Dr. Roswell D. Hitchcock, of Union Theological Seminary, and the founder of the new Society of Church History, which met in Washington at the same time as did the American Historical Association; Mr. Edward G. Bourne, formerly instructor at Yale University and lately appointed Professor of History in Adelbert College, Cleveland; George W. Knight, of the State University of Ohio; J. A. Woodburn, of Indiana

State University; J. D. Crawford, of the University of Illinois; Robert D. Sheppard, of the Northwestern University at Evanston; R. Hudson and A. C. McLaughlin, who together direct the historical department in the University of Michigan; Frederic J. Turner, the associate of Professor William F. Allen in the University of Wisconsin; Allen C. Thomas, of Haverford College, near Philadelphia; William Hyde Appleton and G. E. H. Weaver, two Harvard men now at Swarthmore College in Pennsylvania; James W. Garnett, of the University of Virginia; R. B. Smithey, of Randolph-Macon College; and William P. Trent, formerly of the Johns Hopkins, now Professor of History in the University of the South.

The Western and Southern reach of academic representation, as shown in the above list, is not without interest to an observing reader, nor yet wholly insignificant are the following local, corporate, and State connections. The time is coming when the American Historical Association will have its delegates from State and county and town societies. From Richmond came the Hon. William Wirt Henry, now second Vice-President of the American Historical Association, together with various representatives of the New South, including Dr. A. D. Mayo, the Apostle of Education. From New York came the Hon. John Jay, President of the Huguenot Society of America and now first Vice-President of the Association. New York was further represented by the Hon. Charles A. Peabody, Gen. James Grant Wilson, C. W. Bowen, William E. D. Stokes, Samuel M. Jackson, E. W. Fisher; C. H. C. Howard, of the Astor Library; Dr. M. M. Bagg, of the Oneida Historical Society at Utica; and Willard C. Fisher, Fellow of Cornell University. From Boston came James Schouler, the distinguished historian; from old Braintree, the Headmaster of Thayer Academy, J. B. Sewall. Providence and the Rhode Island Historical Society were represented not only by Professor Jameson, but also by William E. Foster, of the Providence Public Library. From Worcester came Nathaniel Paine, a member of the American Antiquarian

Society. Guilford, Conn., had a voluntary delegate in the Rev. Dr. William M. Andrews, and Berkeley Divinity School had a representative in Charles N. Morris, a graduate of Yale. From Philadelphia came Dr. Stillé and Henry Phillips, Jr., Secretary of the American Philosophical Society. From Baltimore came Henry Stockbridge, member of the Maryland Historical Society, and various graduate students from the Johns Hopkins University. Turning again westward, we meet Dr. E. M. Avery and James F. Rhodes, both of Cleveland; Dr. W. F. Poole and Daniel Goodwin, both of Chicago.

The Convention opened Wednesday evening, December 26th, at eight o'clock, in the large and attractive lecture-room of the Columbian University, corner of H and Fifteenth Streets. Dr. William F. Poole, director of the new and richly endowed Newberry Library, of Chicago, who has made various important contributions to the history of the Northwest, was chosen President of the Association at the close of the Boston meeting, in view of the coming centenary of the settlement of the region beyond the Ohio. Although the place of meeting was afterward changed from Columbus to Washington, a good place in the programme was reserved for papers relating to the Northwest. Dr. Poole's inaugural address was naturally devoted to the historical interests of that section of country. He made his large and appreciative audience realize that the history of the United States is not confined to the Atlantic seaboard; that there is an ever-expanding horizon of interest in the institutional, economic, and social history of the great West. He reviewed many of the critical questions concerning the original discovery and settlement of that country, now the basis of our republican empire. Most interesting was his able reconsideration of the long-vexed question of the origin of the famous Ordinance of 1787 for the government of the Northwest Territory. It was shown that not one man but many men, not one set of circumstances but a combination of Northern and Southern interests worked together for that grand political result called the Ordinance

of 1787. Without withdrawing from his earlier position regarding the personal influence of Dr. Cutler in illuminating the Bill with noble provisions for education and free soil, and in securing its passage by Congress, Dr. Poole reviewed the whole question in a truly national spirit, worthy of the Association over which he presided. Following the inaugural address were two short communications regarding certain noteworthy historical works now in process of publication. General James Grant Wilson spoke of the methods pursued in editing the "Cyclopædia of American Biography," now approaching completion. Dr. A. G. Warner briefly described a work on "Local Constitutional History," prepared by his colleague in the University of Nebraska, Professor George E. Howard, an historical pioneer in the far Northwest. The existence of a flourishing school of history and politics in that far-off region, as well as in every one of the States of the old Northwest Territory, is an accomplished fact.

Thursday was a field-day for Northwestern history. The Association met at 10.30 A.M. in the spacious lecture-room of the National Museum, to which the Association had been invited by the Regents of the Smithsonian Institution. The first paper of the morning session was by A. C. McLaughlin, Assistant Professor in the University of Michigan, upon "The Influence of Governor Cass upon the Development of the Northwest." It is understood that the historical importance of this subject was suggested by Judge Cooley, of Ann Arbor. Lewis Cass, the Governor of Michigan Territory, for a long period had under his control the Indian posts of the Northwest, and he may be said to have shaped the Indian policy of the United States Government. Professor McLaughlin showed, in a clear and suggestive manner, the masterly diplomacy of Cass in his dealings with the British Government, our great rival for colonial influence in the ever-expanding Northwest Territory. The paper was ably discussed by President C. K. Adams, formerly Professor of History in the University of Michigan. In the original work of its still flourishing and

still growing historical department he evidently took the liveliest interest, as did the whole audience; for Mr. McLaughlin had an interesting subject and a well-written paper, which he read in an agreeable manner. In fact, all the communications made at this Thursday morning session were remarkable well presented, an unusual phenomenon in scientific conventions or learned bodies. There was only one other session which at all rivalled the one under consideration, and that was on Friday evening, the last and most successful session from a public point of view.

The second paper, Thursday morning, was by Professor William F. Allen, of the University of Wisconsin, and it was read by his former pupil and historical associate, Frederick J. Turner. The subject was "The Place of the Northwest in General History." Professor Allen pictured the European background in the great historic drama called "The Westward March of Empire." He called attention to the fact that, three hundred years ago, Spain had a strong grip upon North America. Twenty years later France and England were planting rival colonies. The defeat of the French power in Canada relieved English colonies from Northern pressure, and prepared the way for the American Revolution. The paper further showed that the imperial destiny of the United States hung upon the possession of the Northwest. But for the military success of George Rogers Clark and the diplomatic skill of the American commissioners in successfully negotiating for this very territory, American nationality would have had no free scope; the Mississippi Valley would, perhaps, never have been rescued; the Louisiana Purchase would possibly never have been made. The first territorial advance gave confidence and courage for that march across the continent which really constitutes America. The development of our national policy is inseparably connected with the Ordinance of 1787 for organizing and governing the Northwest Territory. Our entire territorial system, our national idea of republican expansion in free, self-governing States, our national guaranties of free soil, civil and religious liberty,



and the education of the people, are all the historical outgrowth of the *Magna Charta* of the great Northwest.

The next paper was upon the subject of "The History of Higher Education in the Northwest." It was prepared and read by Professor George W. Knight, a graduate of the historical school founded by Andrew D. White and C. K. Adams, in the University of Michigan. Dr. Knight is now professor in the Ohio State University, and is the author of a valuable monograph on "The History and Management of Federal Land Grants for Education in the Northwest Territory," published in the first volume of the "Papers of the American Historical Association." Upon the basis of this original work Dr. Knight is now constructing a "History of Higher Education in the States of Ohio, Illinois, and Michigan," a work which will ultimately be published by the United States Bureau of Education. His brief contribution showed that the Congressional policy of aiding higher education began historically in the Northwest Territory. Although it was not the original intention of Congress to found State universities, such institutions are the natural outgrowth of State aid, which must concentrate or dissipate its energies. In the educational history of the West, the fittest ideas will survive. The Universities of Michigan and Wisconsin are leading the way to the highest education in the Northwest.

Thursday morning's session closed with an interesting talk from Major J. W. Powell, Director of the United States Geological Survey, and the practical leader in recent organized inquiries, under government authority, concerning the languages, institutions, manners, and customs of the North American Indians. There in the great National Museum, itself a splendid monument of the work already accomplished for American history and archæology by congressional support, there in that spacious lecture-hall, surrounded by the now priceless Catlin Collection of Indian portraits, the one-armed Major eloquently discoursed upon "A Language Map of North America," representing in a pictorial way the historical results of many years of systematic study

of the native Indian tribes and nations. He said that language had at last been recognized as the best historical basis for tracing the affinities of North American Indians. There are no less than seventy-three distinct linguistic stocks, with innumerable dialectic variations. Major Powell described the remarkable character and perfection of these Indian languages from a grammatical point of view, and greatly amused his audience by showing that the tendency of the languages of civilized man was toward the gradual extinction of grammar. This view led him to satirize modern Volapük, an aggregation of all sorts of grammar, as a literary monstrosity, reminding one of a universal animal with all possible organs of a specialized nature, hoofs, hands, claws, wings, web-feet ridiculously jumbled together.

Thursday afternoon, from four to seven o'clock, by the kind invitation of Mr. and Mrs. Horatio King, members of the Association and the ladies accompanying them attended a "tea," given in their honor at No. 707 H Street. Many of the scientific people of Washington and a few other representatives of Washington society were present to meet the Association. The occasion proved highly enjoyable to our visiting guests, thanks to the courtesy of Mr. and Mrs. King and the friendly disposition of Washington people.

The evening session on Thursday was called to order promptly at eight o'clock by President Poole, in the lecture-hall of the Columbian University. The first paper of the evening was by Professor J. F. Jameson, of Brown University. His subject was, "The Old Federal Court of Appeal." He said it was well to remember that the United States had a federal judiciary before 1789, although with narrow scope. The Old Federal Court was formed to hear appeals from State courts in prize cases. George Washington made the first suggestion of a federal prize court. From 1776 to 1780 Congress heard prize appeals by means of committees. Their adherence to this plan was attributed by the speaker partly to the influence of the English plan familiar to the colonists, by which prize appeals were heard by a committee of the privy council.

The complications arising out of the case of the sloop "Active," which embroiled the Federal Government with Pennsylvania, and showed the weakness of the former, led to the establishment of a permanent Court of Appeals in Cases of Capture. Its organization and procedure were described by Professor Jameson. Its last meeting occurred in May, 1787. One hundred and eighteen cases came before the court and the committee which had preceded it. It no doubt had an educative influence in bringing the people of the United States to consent to the establishment of a powerful federal judiciary. It may therefore justly be regarded as having been not simply the predecessor, but one of the origins of the Supreme Court of the United States. Professor Jameson's valuable paper was briefly discussed by the Hon. J. C. Bancroft Davis, who has lately published a short monograph upon the same subject, although treating it in a somewhat different way. Each of these scholars had approached his theme without any knowledge of the other's work, and each spoke in the most appreciative language of the other's service to historical science. The two papers are alike contributions to an important but hitherto obscure subject.

The next paper was one of the most suggestive of all those that were presented at the Washington meeting. It was upon the subject of "The Canadian Archives," and was read by the Dominion Archivist, Mr. Douglas Brymner, of Ottawa, the practical significance of whose work has been already mentioned in another connection. Mr. Brymner said there was no systematic arrangement of Canadian Archives before the year 1872, when a petition was presented to the three branches of Parliament praying that steps should be taken for the collection of materials relating to the history of the country. The duty of accomplishing the objects of the petition was assigned to the Minister of Agriculture, who is also Minister of Arts and Statistics. Mr. Brymner was appointed to organize the work. In June, 1872, he was furnished with three empty rooms and "very vague instructions." Mr. Brymner then proceeded

to a preliminary examination of the military correspondence preserved at 'Halifax, and the historical materials to be found in the capitals of the various provinces. In 1873 he went to London and visited the various government offices, the British Museum, and every place where Canadian documents could possibly be discovered. In the British Museum he found the now famous Haldimand Collection and the Bouquet Collection. General Haldimand was Governor of Canada during the American Revolutionary War, and the collection which bears his name relates to the events connected with his official career. The other collection relates to the military operations of Bouquet. The information contained in the Haldimand Collection covers an immense extent of territory. The mass of correspondence fills no less than 232 volumes. Before leaving London, Mr. Brymner made arrangements for copying all the documents contained in the two collections. He persuaded the authorities at the War Office to permit the transfer of the military correspondence from Halifax to Ottawa. No less than eight tons of documents were thus rescued, for it was the intention of the British Government soon to ship the whole mass to England. Mr. Brymner described the tremendous task of classifying and arranging all these hitherto scattered papers, which have been found to number no less than 400,000 titles. He adopted, as did Jared Sparks in all his documentary collections, a strictly chronological order. Knowing that the work of indexing must proceed slowly, he grouped his materials by great subjects. After proper classification and arrangement, the documents were bound. Of the details of Mr. Brymner's work in matters of indexing, calendaring, etc., it is not possible to speak in this connection. Suffice it to say that he set before the American Historical Association and the archivists of Washington a high standard of official duty and a high ideal for his own future work. He said in conclusion: "My ambition aims at the establishment of a great storehouse of the history of the Colonies and Colonists in their political, ecclesiastical, industrial, domestic, in a word, in every aspect of their lives as communities."

The concluding paper of the Thursday evening session was by President James C. Welling, of Columbian University, upon "The States'-Rights Conflict over the Public Lands." He showed that this conflict began in colonial and revolutionary times, and that it imperilled the formation and ratification of the Constitution. Instead of being settled by the Federal Convention in 1787, the conflict was simply handed on from the undefined jurisdiction of the old Continental Congress to the ill-defined jurisdiction of the federal Constitution. The struggle has perpetually re-emerged in the history of the United States down to the time of our late Civil War. The conflict has always been between two classes of States for the possession of public land as the pledge and symbol of political preponderance in the administration of the Federal Government.

The last morning session of the Association was held at the National Museum. The first communication was a valuable essay in American economic history, upon our "Trade Relations before the Year 1789," by Willard Clark Fisher, Fellow in Cornell University. While not intended as a practical solution to the present tariff question, the paper clearly showed that our national tariff system is deeply rooted in American colonial history. Mr. Fisher reviewed the commercial regulations of the different colonial governments, and showed that the first important step towards a continental system of duties was taken in the import resolutions of 1781 and 1783. Mr. Charles N. Morris, a Yale graduate now in the Berkeley Divinity School, then presented a "History of Internal Improvements in Ohio," with an interesting diagram showing the economic effects of the policy. He showed the influence of the Erie Canal in stimulating the State policies of internal improvements in Maryland, Pennsylvania, Ohio, and other States further to the westward. The public works of Ohio, notably the canals, were failures from a business point of view. The profits arising were insufficient to pay the interest on the debt incurred. Ohio public works stimulated speculative enterprises and the reckless

construction of turnpikes and railroads. The so-called "loan law" of 1837, by which the State lent credit to private companies upon very loose principles, led to a plundering of the public treasury and to many economic disasters.

The principal paper of this session and one of the most important, from a public point of view, in the entire convention, was on "The Uses and Limitations of Historical Museums," by Dr. G. Brown Goode, Assistant Secretary of the Smithsonian Museum and for a long time practical director of the National Museum. The lecture-hall, which on the first day of the convention was beautifully decorated with framed engravings and etchings (just received from the Exposition at Cincinnati and tastefully arranged in alcoves along the sides of the room), now presented additional attractions to the delighted gaze of members of the Historical Association as they entered and looked about. Many of the upright cases containing American historical relics had been brought into the lecture-hall, and a large collection of historical portraits, grouped in swinging frames around upright shafts, greeted the eye as the audience looked toward the platform and the speaker's place. It seemed as though civilized man was at last finding an honored place in that vast company of savage portraits and Indian relics, which, in the popular fancy at least, have long characterized the National Museum. Before seeing this new historic vista very few among the visiting members in the American Historical Association had any adequate conception of the rapid progress which this same museum has of late years been making in the direction of what might be called historical in contradistinction from prehistoric and purely archæological collections. The idea of the historic evolution of the arts and sciences, the thought of a National Portrait Gallery, arranged by States, is clearly in process of development. Catlin's collection of Indian Portraits will some day have a rival which every visiting citizen and foreign traveller will study with enthusiasm. Prehistoric art in that great Museum has led the way already to historic art. Civilization will soon be illustrated as fully as savagery.

This prelude formed no part of Dr. Goode's paper, but ideas of this sort were in many people's minds, as revealed in subsequent conversations. Dr. Goode said that the historian and naturalist have met upon common ground in the field of anthropology. The anthropologist is in most cases historian as well as naturalist, while the historian of to-day is always in some degree an anthropologist, and makes use of many of the methods of natural science. The museum is no less essential to the study of anthropology than to that of natural history. The library formerly afforded to the historian all necessary opportunities for work. The charter of the American Historical Association indicates that a museum is regarded as one of its legitimate agencies. The museum idea is much broader than it was fifty or even twenty-five years ago. The museum of to-day is no longer a chance assemblage of curiosities, but rather of objects selected with reference to their value to investigators, or their possibilities for public enlightenment. The museum of the future may be made one of the chief agencies of the higher civilization. One source of weakness in all museums is that they have resigned, without a struggle, to the library materials invaluable for the completion of their exhibition-series. Pictures are just as available for museum work as specimens, and it is unwise to allow so many finely illustrated books to be lost to sight and memory on the shelves of the library. Dr. Goode defined a museum as a carefully selected series of labels, each illustrated by a specimen. He thinks the object of a museum is largely educational. By using books, pictures, casts, maps, personal relics for illustrative purposes, the friends of history in America can greatly stimulate popular interest in the development of human culture and modern civilization. In such ways the National Museum is already beginning to illustrate the origin and growth of the arts, for example, music, the highest of all arts. There is a long historic process in the development of every human implement and useful invention. Professor Mason has illustrated some of these processes in the arrangement of collections in

the Museum. The history of the ways and means of transportation, simple as the idea now seems, covers the entire range of man's economic development, from the rude devices of the savage to the modern application of steam and electricity by civilized man. As a practical means of quickening popular interest in the historical side of the National Museum, it was suggested that a National Portrait Gallery be developed in Washington with pictures of early discoverers, colonial founders, pioneers, governors, statesmen, public men grouped when possible by States. Such collections might easily be made by appealing to State pride, to State Historical Societies, local antiquaries, and local members of the American Historical Association. The collection of historical archives, family papers, valuable letters, and historical autographs might also be fostered by the same means. The Secretary of the Smithsonian Institution is one of a committee of three appointed by Congress to form what may perhaps be called a Record Commission, or a Commission on Historical Manuscripts already owned by the government.

The closing session was called to order at 8 P.M. in the Columbian University. In the absence of Mr. Henry C. Lea, of Philadelphia, his paper upon "The Martyrdom of San Pedro Arbués" was read by General Wilson. Mr. Lea's paper, which will be printed in full in the proceedings of the Association, was an important contribution to the history of the Inquisition in Spain. In Castile the breaking down of national institutions enabled Ferdinand and Isabella to introduce the Inquisition without opposition, but in Aragon the case was different, and the attempt was delayed until the consent of the Cortes, or Parliament, could be had. This was accomplished in the spring of 1484; Pedro Arbués and Gaspar Juglar were appointed inquisitors, and two *autos-de-fé* were held in May and June. Gaspar Juglar was speedily poisoned, and a strong popular antagonism suspended the proceedings of Arbués. Efforts were vainly made to induce King Ferdinand to change his purpose and all the resources of legal opposition were exhausted. Supported by the



royal power Arbués resumed his functions, and a conspiracy was formed among the *conversos* (Jews baptized through force or fear) to despatch him. In April or May, 1485, an attempt was unsuccessfully made upon his life, and it was not until September 16th that the conspirators wounded him mortally while kneeling in prayer at matins before the altar of the cathedral. The assassination caused an immediate revulsion of popular feeling which enabled Ferdinand to establish firmly the Inquisition in Aragon.

The second paper of the evening was by the Hon. William Wirt Henry, of Richmond, and was entitled "A Reply to Dr. Stillé upon Religious Liberty in Virginia." In the paper he had read before the Association in 1886, Mr. Henry had maintained that Virginia was the first State in the history of the world to embrace in her constitution of government the principle of absolute religious liberty, involving the absolute divorce of church and state. Dr. Stillé in a paper read in 1887 contested this point, on the ground that the Virginia Bill of Rights, in which the principle was embodied, was no part of the Virginia constitution and needed subsequent legislation to enforce it, which was not till 1785, when Jefferson's bill to establish religious liberty was enacted; and further that Pennsylvania before that time had adopted a constitution in which the principle had been more clearly stated. Mr. Henry in replying to Dr. Stillé cited the decisions of the Virginia Court of Appeals to the effect that the Bill of Rights was a part of the constitution, was in force without legislation, and rendered null and void all conflicting acts. He cited also an act of the Virginia Assembly to the same effect, which embodied the statement that Jefferson's bill was but a true exposition of the Bill of Rights. Mr. Henry declared that the Virginia principle, thus implanted in her Bill of Rights, guaranteed civil rights to men of all religious beliefs, to Christians, Jews, pagans, infidels, and atheists; and was a complete divorce of church and state. He then cited the provisions of the Pennsylvania constitutions, and showed that they denied civil rights to atheists and to men who did not believe in future rewards and punishments. He maintained

that the Virginia principle was not antagonistic to Christianity, but was one of the truths taught by its author, and that Christianity, like all truth, has the power of self-preservation, and only asks of civil government to be let alone. Mr. Henry's paper was vigorously discussed by Dr. Stillé, Senator Hoar, and President Poole.

The last paper of the evening was by Clarence W. Bowen, Ph.D., upon "The Inauguration of George Washington as President of the United States." The paper was published in full in *The Century*, April, 1889, at the time of the centenary celebration in New York City, and its report in the present connection is not required. Some of the committees appointed by President Poole on the opening night of the Washington meeting now reported. In behalf of the committee on time and place of next meeting, Judge Charles A. Peabody reported in favor of Washington and the Christmas or Easter holidays, at the further discretion of the committee. Professor Postlethwaite, of West Point, reported resolutions of thanks on the part of the Association to the officers of the Smithsonian Institution and National Museum, to the President and Trustees of the Columbian University, to the President and Board of Governors of the Cosmos Club, and to Mr. and Mrs. Horatio King, for their various courtesies to the Association during its Washington convention. The treasurer's report for the current year shows the present assets of the Association, in good investments and ready money, to be \$3,468.32, not counting the market value of the Association's published "Papers," of which there is a good stock in the Publishers' hands. In behalf of the committee on nominations, Mr. Justin Winsor reported for President of the Association, Dr. Charles Kendall Adams; for First Vice-President, the Hon. John Jay; for Second Vice-President, the Hon. William Wirt Henry; the remaining officers to be continued, with the addition of Professor George P. Fisher to the Executive Council. Into this Historical Areopagus Dr. Poole will now honorably retire as ex-Presidents White, Bancroft, and Winsor have done before him.

In behalf of the committee on the Charter, Mr. Winsor reported the final passage of a satisfactory act of incorporation for the American Historical Association by both Houses of Congress, and the favorable prospect of the signing of the bill by the President immediately after the congressional recess. Mr. Phelan, of Tennessee, who had at last succeeded in getting the act through the House, was then called for and made a facetious speech, recommending the Rules of the House of Representatives as a good subject for original research. Senator Hoar, who closed the Washington meeting in 1886 with a brilliant tribute to Mr. George Bancroft, the retiring President, was now called upon for a speech. He congratulated the Association upon its alliance with the Smithsonian Institution. He said Washington was destined to become the centre of intellectual activity in this country. The great scientific bodies of the United States had already established their headquarters there. It was only natural that the American Historical Association should make Washington the seat of its activity. The future would show that the historian of American institutions must come to Washington, for here are the great collections of the State Department, the Congressional Library, the National Museum, and the vast unexplored treasures of the various Departments of the United States Government. The value of the vast historical treasure-house in this city will increase from year to year, so that, in time, the great American University, in the widest acceptation of that term, will be in the City of Washington. Millions of dollars invested in educational institutions elsewhere will not bring about the same results as a moderate sum invested in Washington.

Senator Hoar further said that American history is the most stimulating history that the world has known. If we are to maintain the republic, a knowledge of its history is absolutely essential to its good government. The importance of teaching the history of the United States to young men cannot be exaggerated. Our young men must be taught that virtue is possible in public men and that it is also possible in nations.





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## OF THE

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- Wheeler, Professor Arthur M., Yale College, New Haven, Conn.
- †Wheeler, Professor N. M., University of South California; University Post-Office, Los Angeles, Cal.
- Wheeler, Capt. Geo. M. (U. S. A.), 930 16th Street, Washington, D. C.
- Wheildon, William W., Esq., Concord, Mass.
- \*White, Hon. Andrew D., LL.D., L.H.D., Ithaca, N. Y.
- White, Hon. Peter, Marquette, L. S., Mich.
- Whitney, Eli, Esq., New Haven, Conn.
- Whitsitt, Rev. Wm. H., 306 E. Chestnut St., Louisville, Ky.
- †Whittlesey, Col. Charles, President of Western Reserve and Northern Ohio Historical Society, Cleveland, O. Died, Oct. 18, 1886.
- Wiggins, P. Porter, A.M., Saratoga, N. Y.
- Williams, Professor David, Essex, Iowa.
- Williams, J. Fletcher, Esq., Librarian of the Minnesota Historical Society, St. Paul, Minn.
- Williams, Frederick Wells, Esq., 60 Trumbull Street, New Haven, Conn.
- Williams, Robert S., Esq., Utica, N. Y.
- Willing, Henry J., Esq., care of Anson Sperry, Esq., 154 Lake St., Chicago, Ill.
- Willis, Prof. Henry, 1907 Ellsworth Street, Philadelphia, Pa.
- Willoughby, W. W., 458 Louisiana Ave., Washington, D. C.
- Wilson, Gen. James Grant, 15 East 74th Street, New York City.
- Wilson, Professor Woodrow, Wesleyan University, Middletown, Conn.
- \*Winslow, Rev. William C., Ph.D., LL.D., L.H.D., D.C.L., 429 Beacon St., Boston, Mass.
- Winsor, Justin, LL.D., Librarian Harvard University, Cambridge, Mass.
- \*Winthrop, Hon. Robert C., LL.D., 90 Marlborough St., Boston, Mass.
- \*Winthrop, Robert C., Jr., Esq., 10 Walnut Street, Boston, Mass.
- Wood, Francis G., Esq., Utica, N.Y.
- Woollen, Mrs. Mary A. E., 828 Pennsylvania Ave., Indianapolis, Ind.
- Wray, John H., Esq., Cambridge, Mass.
- Wright, Col. Carroll D., Department of Labor, Washington, D. C.
- Wright, Ebenezer K., Esq., 172 West 58th Street, New York City.
- Wright, Gen. Marcus J., War Records Office, 2005 G Street N. W., Washington, D. C.
- Yager, Professor Arthur, Georgetown, Ky.
- Young, Rev. Edward J., D.D., Waltham, Mass.
- Young, F. G., Professor State Normal School, Madison, Dakota.
- (Total, 524, including 99 Life Members.)
- N. B.—Corrections in the above list should be sent to the Secretary.

THE EARLY NORTHWEST  
INAUGURAL ADDRESS





## THE EARLY NORTHWEST.

By WILLIAM F. POOLE, LL.D., President of the Association.

It was the intention of the committee having the matter in charge to select, as the place of this meeting, some city in the Northwestern States, in view of the fact that this is the centennial year of the English settlement of that territory. Columbus, Ohio, was therefore chosen, and an early date in September was named. The preoccupation of Columbus at that date by centennial celebrations, army reunions, and political assemblies made it advisable to change the place of meeting to Washington, and the time to this later date. It was understood, however, that the scheme of topics originally proposed, in which, under the circumstances, the Northwest was likely to have a prominent place, would not be changed.

It is apparent to every intelligent observer that there is in our country an increasing interest in historical studies, and especially in the study of Western history. Perhaps the most marked indication of the fact is the number of young and scholarly persons who are turning their attention to the subject, and are writing monographs which are models of literary taste and of exhaustive historical research. The introduction into our leading universities of the method of studying history from original sources, and the appointment of trained and accomplished professors to superintend these studies, have done much to create and develop this awakened interest in history. At all events, the generous enlargement of the college curriculum and the production of such papers as have appeared in the "Historical and Political-Science Studies of the Johns Hop-

kins University," give emphasis to the fact that the fashion of writing American history which the public once seemed to enjoy—in which preconceived opinions, tradition, the imagination, and old text-books were served up with much rhetoric and fine writing,—has passed away.

The leading purpose of the historical student of our time is to ascertain what is the truth, and, having found it, to express it clearly, concisely, and fearlessly. Following his inquiries back to original sources, he is often amazed that so much of what has passed current as history and been copied from one writer to another, is erroneous. The best results of thorough and accurate investigation and scholarship have not yet been embodied in the general works known as "Histories of the United States." They are in special treatises, in monographs, and in the publications of historical societies and printing clubs. A "History of the United States" prepared on the principles which are taught in the historical departments of the Johns Hopkins University, of Cornell University and the University of Michigan, is the desideratum of our time. The materials for such a history are abundant and available, and the references to them in works like President Adams's "Manual of History" and Winsor's "Narrative and Critical History" will aid the student in his search for truth.

Such a history as we are considering will recognize the fact that a large and important portion of our common country lies west of the Alleghany Mountains, and that it has a varied, romantic, and entertaining record of its own, quite unlike that of the Eastern States. The general histories of the United States have been written by Eastern men, and few of their writers have been tall enough to look over the Appalachian range and see what has happened on the other side. The story of the Revolutionary War has often been told without a mention of the campaigns of George Rogers Clark, who, as a Virginia partisan and with an intelligence and valor which have not been surpassed in ancient or modern warfare, captured from the British the Northwestern Territory, and holding it until the peace of 1783,

secured to this Nation the Mississippi River and the great lakes as boundaries.<sup>1</sup> The Ordinance of 1787, if any mention be made of it, has often been despatched in about five lines. "The glory of the Northwest," said Senator Hoar, in his recent oration at Marietta, "is the Ordinance of 1787. It belongs with the Declaration of Independence and the Constitution. It is one of the three title-deeds of American constitutional liberty."

The Northwest has had its own annalists; the earliest being honest, unlettered men, who, without books or authentic documents, mingled much which was traditional and inaccurate with their otherwise truthful narratives. Nevertheless, such rough annals as Doddridge's Notes, Withers's Border Warfare, and Gov. Reynolds's "Pioneer History" and "My Own Times," cannot be spared. Scarcely any books of Northwestern origin and imprint appeared until the second quarter of the present century. Within this period, or earlier, several educated men came from the East and gave their attention to Western history: Caleb Atwater, Timothy Flint, James Hall, Jacob Burnet, Samuel P. Hildreth, James H. Perkins, and a few others.

It is not my intention to give a list of the early books on the Northwest, and much less of the later publications, which are many and valuable. My purpose is:

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<sup>1</sup> "3. That, if a right to the said territory depended on the conquests of the British posts within it, the United States have already . . . by the success of their arms obtained possession of all the important posts and settlements on the Illinois and Wabash, rescued the inhabitants from British domination, and established civil government in its proper form over them." (Instructions of Congress to Mr. Jay, October, 1780, *Secret Journals of Congress*, II., 329.)

"From a full confidence that the Western territory now contended for lay within the United States, the British posts therein have been reduced by our citizens, and American government is now exercised within the same." (Report written by Mr. Madison entitled "Facts and Observations in support of the several Claims of the United States," *Secret Journals of Congress*, August, 1782, III., 199. N. Y. Hist. Collec., 1878, p. 139.)

"He [Vergennes] intended to resist the claim which the colonies had invariably advanced of pushing their frontiers as far west as the Mississippi, . . . and to leave the country north of the Ohio to England, as arranged by the Quebec Act of 1774." (Fitzmaurice's "Life of Earl Shelburne," II., 169.)

1. To suggest some points in Northwestern history which need to be investigated.
2. To consider the sources of, and facilities for, such investigation and how they may be improved.

For more than a century after the Northwest had been traversed by French explorers and traders, its history pertained to that of Canada. The voluminous writings of those explorers have been studied by many historians, but by none so thoroughly and critically as by Mr. Parkman; and the results are embodied in his charming series of books. His writings, scholarly, picturesque, and entertaining as they are, have not exhausted this field of research. On the other hand, they have imparted a new interest to the original authorities. The narratives of Champlain, Lescarbot, La Salle, Marquette, Tonty, and Hennepin, and the Relations of the Jesuits, were never read with so much interest as now, and they furnish abundant themes for fresh research.

How La Salle busied himself during the years 1669 and 1670, where he traveled, what he saw, and whether he then discovered the Ohio and Mississippi rivers, are questions still unsettled. There are early but questionable statements that he discovered the Mississippi river three years before it was seen by Joliet and Marquette, who supposed that they were the discoverers. He may have found the Ohio river, and followed it down to the falls at Louisville; but it is not probable that he reached the Mississippi river. The student will be fortunate who will clear up these uncertainties.

The name of Father Louis Hennepin has been clouded with the charge that he was a dreadful liar. Mr. Parkman has expressed the current opinion of him by saying: "His books have their value with all their enormous fabrications. Could he have contented himself with telling the truth, his name would have stood high as a bold and vigorous discoverer."

Father Hennepin's character in no other respect has been impeached; and while in America he bore the reputation

of a fearless, circumspect, and self-denying priest. When stationed in Canada he would start out in the depth of winter with a little chapel service on his back, and travel twenty or thirty leagues on snow-shoes, that he might baptize dying Indians and harden himself for his rough pioneer work. With two companions he explored, in 1680, the Mississippi river north from the mouth of the Illinois river, discovered and named the Falls of St. Anthony, and wrote the earliest book of travels in the Northwest. The general truthfulness of this book has never been questioned; and its popularity has exceeded that of all other contemporary publications relating to North America. May there not be some mistake in the severe judgment which has been passed upon the character of Father Hennepin? That there were falsehoods and frauds in later publications which bore his name is true; but what part of the culpability of those frauds, if any, rests upon him, is a question which needs a new and careful investigation.

He went back to France in 1681 or 1682, and never returned to America. He brought out his "*Description de la Louisiane*" in 1683. The book was translated into German, Dutch, and Italian, and six editions appeared during the next six years. No English translation, however, appeared until six years ago. English readers have therefore taken their views of Father Hennepin from the later publications, of which there were English translations, and of which I am about to speak.

If Father Hennepin's book-making had stopped in 1683, and, doubtless, if he had kept clear of unscrupulous book publishers, no charge of mendacity would have been brought against him. All his troubles and bad reputation grew out of the publication of two later books—the "*Nouvelle Découverte*," at Utrecht, in 1697, and the "*Nouveau Voyage*," at Utrecht, in 1698. The popularity of these two books exceeded that of the first publication. Of the former, eighteen editions appeared—eight in French, six in Dutch, two in German, and one in English. Of the latter, ten editions were issued, making in all thirty-five editions

of the three books which bore his name as author. The matter of the second book, the fraudulent portions excepted, was substantially the same as that of "Description of Louisiana," of 1683; but it was re-written, enlarged by narratives stolen from other writers, and amplified by fraudulent claims and absurd errors which no person who had visited the country would make.

The most idiotic claim in the edition of 1697 was, that the alleged writer, before ascending the Mississippi to the Falls of St. Anthony, descended the river to its mouth. For a description of the voyage there was inserted the pilfered details of one made by La Salle in 1681, written up by Father Membré, and printed in Le Clercq's "Etablissement de la Foi," in 1692. A voyage of 3,260 miles, half of it against the current, was a physical impossibility during the thirty days assigned to it. The fraud was detected in Europe as soon as the book appeared, and was a sort of mendacity which a person who was ignorant of the country would be likely to indulge in. In his first book, Hennepin spoke truthfully, and only of his voyage to the North.

The historical method of assigning responsibility is the charitable one of requiring evidence which has the semblance of proof; and especially when, as in this case, the probabilities of innocence are greater than those of guilt. Dr. Shea, in the preface of his translation of Hennepin's "Description of Louisiana," shows a strong presumption that Father Hennepin was not responsible for the fraudulent features of the two later publications.

Thirteen years after the issue of his first book, during which period he performed honorable clerical service, Hennepin proposed to issue another publication, in substance a second edition of his first book; and he prepared for it a personal account of his experiences since he returned from America, and some incidents in, and illustrations of, his Western travels not contained in his first publication. Whether the rewriting of the narrative, or of any part of it, was done by him is uncertain, and, on the whole, not probable. The earlier portion, by whomsoever rewritten,

was well done. Mr. Parkman says of it: "Fortunately, there are tests by which the earlier parts of his book can be tried; and, on the whole, they square exceedingly well with contemporary records of undoubted authenticity." In other words, the earlier parts of the book follow closely the narrative of the first publication. The fraudulent chapters come in later.

Hennepin sought for a publisher at Amsterdam, but without success. At this time, having suffered persecution from the French government which he ascribed to the enmity of La Salle, he had gained the friendship of William III. of England, and desired to return to his mission work in America under English auspices. He then applied to William Broedelet, bookseller, of Utrecht, with more success.

We know nothing of his arrangements with Broedelet; but the publisher probably took in the situation—that Hennepin was desperately in need of a publisher. Reprinting a book which had passed through seven editions was not a promising venture, even with some manuscript additions by its author, several pictorial illustrations and a new title-page. Could it not be re-written by another hand, enriched by other narratives, and all appear as the work of Father Louis Hennepin, the most popular annalist of the time on American affairs? Such thoughts may have occurred to the mind of the thrifty publisher. The priest was unversed in the pit-falls of the book trade; and with a liberal sum of money in hand was likely to sign any contract tendered him. If a contract between Father Louis Hennepin, Récollect missionary, and William Boedelet, bookseller, of Utrecht, Holland, could be found, it would doubtless prove to be that sort of a contract in which every right is given to the party of the second part, and nothing to the party of the first part. The race of merciless and unscrupulous book publishers, who have disappeared in our day, flourished two centuries ago.

Whatever might have been the terms of the agreement between Father Hennepin and his publisher, the book itself shows that it was tampered with after it was printed, by the



insertion of foreign matter printed on different type and in another office, which caused a duplication of the paging.

Some historians have made the further charge against Hennepin, that his first book was a plagiarism of a manuscript, "*Relation des Découvertes*," compiled from La Salle's letters. The explanation of this charge is simple. La Salle took Father Hennepin with him on his Western journey of exploration, in 1680, as his scribe and annalist. In the reports of the exploration which he sent home to France he embodied, as his own, the narrative written by his subordinate, as he had a right to do. The subordinate also had the right later to print his own narrative. That Hennepin was the writer, in instances where the two narratives are the same, appears from the fact that they describe events and side-excursions when La Salle was not present and Hennepin was.<sup>1</sup>

The different orders of the clergy in Canada were then in constant quarrels. Hennepin, a Récollect, had no favor in the eyes of Jesuits. La Salle hated the Jesuits, and had the propensity to wrangle with and make himself obnoxious to everybody except his savage retinue. His letters and those of the clergy abound in charges of falsehood and trickery, in backbiting and all uncharitableness. Hennepin did not escape this fusilade of personal bickering; and yet his own narrative, as first published, is singularly free from reflections upon the conduct of others.

To some young and enthusiastic investigator, the literary and personal history of Father Hennepin will afford an

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<sup>1</sup> The third publication bearing the name of Father Hennepin, the "*Nouveau Voyage*," printed at Utrecht, in 1698, is made up from Father Le Clercq's book, and the "*Manners and Mode of Life of the Indians*" contained in Hennepin's first publication. It has a most extraordinary preface which scores the critics of Hennepin's second book without mercy. It defends the truthfulness of Hennepin's alleged voyage down the Mississippi, asserting that the distance was only three hundred leagues, and that the voyage could easily be made in thirty days. It also states that the account of LaSalle's voyage, printed by Le Clercq, was stolen largely from a manuscript copy of Hennepin's description, which he (Hennepin) left with Father Le Roux at Quebec. There were liars in those days. If Hennepin was the writer of this preface, a defense of his reputation is hopeless.

excellent subject for study. The date of his death is not known, and the record of his life subsequent to the publication of the books which bear his name is a blank. It is not probable that he will prove to be a saint, for he was vain and ambitious, claiming for himself more importance in the expedition than his humble position of scribe and priest entitled him to; but it is not probable that he deserves the character assigned to him by modern historians—that of an idiot in deception and a monster in mendacity.

Of the French "Company of the West," organized, in 1717, as a part of the financial scheme of John Law, we know but little, and need to know more. It brought into the Illinois country, under M. Pierre du Boisbriant, a large immigration of mechanics and laborers from France, of negroes from St. Domingo, some soldiers, and several military engineers. Agriculture after European methods was introduced, the lead mines were opened, and Fort Chartres was built, first of wood and then of cut-stone, making it the best-constructed and strongest fortification on the continent. Its ruins, once on the banks of the Mississippi, and now, from a change in the bed of the river, a mile away, inspire amazement that such a fort should have been built at that time and in such a place. It covered an area of four acres, and the nine buildings it inclosed were also of cut-stone, with windows furnished with iron shutters, hinges, and sashes.<sup>1</sup> The annals of Fort Chartres and its early surroundings will furnish another interesting subject for study.

The social condition of the early French and Canadian settlers in the Illinois country is by some writers represented to be of Arcadian simplicity and innocence. Other writers give them a very different character. It would be well if we knew more of their actual social condition.

We have no life of George Rogers Clark, or full history of the stirring events in which he was an actor. The notices

<sup>1</sup> New York Colonial Docs., X., 1162.

of his life which have appeared in print are full of inaccuracies. His own manuscripts and much other material concerning his life are in the possession of an eminent student of Western history residing at Madison, Wis. The "Calendar of Virginia State Papers," and "Haldimand Collection" at Ottawa, bring out many facts supplementing his own printed reports. In the "Haldimand Collection" is the official report of Henry Hamilton, Governor of Detroit, on his campaign and his capture by Col. Clark at Vincennes, Ind., in 1779. This report gives us, from the British standpoint, the facts we have needed concerning that important event. On the whole it confirms the accuracy of Clark's several narratives. Clark regarded Hamilton as responsible for the inhumanities committed upon the Western settlers by the Indian scalping parties sent out from Detroit; and hence Clark called him "the Hair-buying General," and treated him with great severity. The governor and council of Virginia held similar views of Hamilton, and treated him in like manner during the two years he was their prisoner. Hamilton in his report defends himself from the charge. He admits that he sent out the Indian parties; but states that he was very careful to give the savages instructions not to scalp their captives; and he was confident that they obeyed his instructions, because some prisoners were brought in. He states that he engaged in this sort of warfare with great reluctance, and then only on Lord George Germain's positive instructions.<sup>1</sup>

The story of the butcheries practised upon the Western settlements, during the Revolutionary war, by Indian scouting parties sent out from Detroit, can hardly be exaggerated. To avenge these inhumanities was a leading motive of Clark and his men in making that winter campaign against the "Hair-buying General" at Vincennes. The policy of the British government in its conduct of the war in the West is a subject which will repay investigations; and Gov. Hamilton's defense and his scheme of giving wild savages Sunday-

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<sup>1</sup> The report of Gov. Hamilton is printed in Michigan Pioneer Collections IX., pp. 489-516.

school instruction in the humanities, can then be considered. What those many gross of "red-handled scalping-knives"<sup>1</sup> were for, which regularly appeared in the official requisitions of merchandise wanted at Detroit, can then be explained.

For nearly a century the origin and history of the Ordinance of 1787 were veiled in obscurity, and the most conflicting statements were made concerning them. During the last twelve years the tangled threads have been unraveled, and the subject has been a prominent theme with all general writers on the Northwest. The main facts concerning it are now well established—that it was drafted as a part of the scheme devised by the Ohio Company of Associates, formed in Massachusetts, for buying and settling a large tract of land in Ohio on the Muskingum river; and that it was enacted by the unanimous vote of Congress in furtherance of that scheme. As Dr. Manasseh Cutler was the director of the company, who, with a sagacity and ability unsurpassed, conducted this business before Congress, and made the land purchase, the main credit of the enactment of the Ordinance and of its beneficent results have been generally awarded to him. He was entitled to great praise; but to his associate directors, Gen. Rufus Putnam and Samuel Holden Parsons, and to prominent members of Congress—a majority of them Southern members—a large share of the honor is due. The authorship of the Ordinance has been earnestly discussed by some of the recent writers, and they have attempted to fix it upon some individual. No one, I think, in the present state of the investigations, can be regarded as its author. It came from a committee, and what occurred in the sessions of that committee is not known. The scribe of the committee was Nathan Dane, and if the manuscript of the final draft, which is now lost, could be found, it would probably appear in his handwriting. The manuscript of the sixth article of compact—the article prohibiting slavery in the Northwestern

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<sup>1</sup> Farmer's "History of Detroit," pp. 246, 247.

Territory and States—is extant, and is in his handwriting. Mr. Webster asserted, in 1830, that Mr. Dane was the author of the ordinance. Mr. Dane in a letter to Rufus King, written three days after its passage, stated that he “drew it”; and on four occasions<sup>1</sup> from thirty-seven to forty-four years later, when all the persons associated with him in 1787 had passed away, and his memory had failed, claimed for himself the whole credit of the Ordinance. On this statement it is easy to assume that Mr. Dane was its author. Other facts, however, are not in harmony with this conclusion.

The handwriting of the committee's draft would not show the authorship of the Ordinance, or of the principles and measures contained in it. The draft, under instructions, might have been written by a clerk; and the main features may have originated with any member of the committee, or been furnished from some outside source. Mr. Dane's record does not favor the theory that the Ordinance was his.

As a Massachusetts delegate he was not in sympathy with the scheme of Western settlement, and was not in intimate relations with the promoters of the Ohio Company, although they were Massachusetts men. The directors expected nothing from the Massachusetts delegates, and worked independently of them. Gen. Rufus Putnam, writing to Gen. Washington (who gave the Ohio Company his earnest support), said that he could not bring these matters to the notice of the Massachusetts delegates, as they had lands of their own for sale; “and I dare not,” he adds, “trust myself with any of the New York delegates with whom I am acquainted, because that government is wisely inviting the Eastern people to settle in that State.”<sup>2</sup> The directors of the company looked to Virginia and the Southern States for the support they needed, and

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<sup>1</sup> In his “Abridgment of Am. Law,” 1824. VII., pp. 389, 390; IX. (1830), Appendix pp. 74-76; in letter to Daniel Webster, March 26, 1830, *Mass. Hist. Soc. Proceedings*, 1867-69, p. 475; and in letter to Indiana Hist. Soc., May 12, 1831, printed in *New York Tribune*, June 18, 1875.

<sup>2</sup> “Life of Dr. Cutler,” I., p. 176.

there they found it. Mr. Dane was the delegate from Dr. Cutler's own district in Massachusetts, and was born in the parish where Dr. Cutler preached; but the Doctor did not take him into his confidence. When preparing for his visit to Congress, he looked elsewhere for introductions, and procured letters from Gov. Bowdoin, President Willard, of Harvard College, and other personal friends. Six days after the enactment of the Ordinance, and while the land purchase was under consideration, the Doctor made in his journal an inventory of his supporters among the delegates in Congress, and of those from whom he expected opposition. In the list appears this sentence: "Holton" (who was a delegate from his own county in Massachusetts), "Holton, I think, can be trusted. Dane must be carefully watched, notwithstanding his professions."<sup>1</sup>

The subject of an Ordinance for the Northwestern Territory had been before Congress for more than three years, had been much debated, and many schemes proposed had failed. On September 19, 1786, Mr. Dane was placed on a committee to draft such an ordinance. Here was the opportunity for him to have won such renown as an ordinance-maker as would be unquestioned. The committee reported April 26, 1787 an ordinance which had no prohibition of slavery, no articles of compact, nor any of the provisions which have made the Ordinance of 1787 so memorable. The draft of April 26th probably embodied Mr. Dane's opinions and policy at that time. It took its first and second readings, and was before Congress for its third reading and enactment when Dr. Cutler arrived in New York on the afternoon of Thursday, July 5th. On Friday, July 6th, Dr. Cutler began his work; and by the following Friday, July 13th, the draft of April 26th had been laid aside; another committee had been chosen to prepare a new Ordinance; the committee had reported; the new draft had taken its three readings on three successive days, and had been enacted by the unanimous vote of all the States. Such rapidity of action arrests attention, and demands an

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<sup>1</sup> "Life of Dr. Cutler," I., p. 294.

explanation. It is not only unique in the annals of American legislation, but the Ordinance enacted was radically unlike any of the drafts which had preceded it, and had a foresight and political sagacity which has challenged the admiration of statesmen, and yielded the most beneficent results.

Is it possible that the new Ordinance was devised and drafted in about one day,—on the refined and complicated plan so elaborately explained by him many years later,—by one who had shown such indifference to, and lack of knowledge on, the subject, as had Mr. Dane? In his letter to Rufus King, written three days later, while stating that he “drew it,” he spoke of it apologetically as a piece of patchwork hastily got up. Its statesmanship, of which nearly a half century later he was so proud, he was then wholly unconscious of. Dr. Cutler might have told us in his journal how this rapid action came about, and who was especially entitled to the credit; but he did not, and the facts have not come to light from any other source. The new committee to prepare the Ordinance was appointed on Monday, July 9th, and the sessions began at 11 o'clock, A.M. On Tuesday the draft was so far completed that it was referred to Dr. Cutler for amendments, and was returned by him to the committee in the afternoon. On Wednesday it was reported to Congress and printed without the anti-slavery article. On Thursday it took its second reading, was amended, and the sixth article prohibiting slavery restored; and on Friday, July 13th, it took its third reading, and was enacted.

Dr. Cutler's journal accounts for every moment of his time after he had arrived in New York, and shows that he could not have drafted the Ordinance there. On Sunday, the only day of leisure he had, he attended divine service three times, dined with Sir John Temple, the British Consul-General, in company with other guests, ate a heavy English dinner, and took tea with Ebenezer Hazard, the Treasurer of Congress. On Monday and Tuesday, however, he had three conferences with “the committee,” just before, and while the final draft was in consideration. His record on

Monday is: "Attended the committee before Congress opened, and then spent the remainder of the forenoon with Mr. Hutchins,"<sup>1</sup> the Geographer of the United States. The committee on the Ordinance was not appointed until later on the same day. "The committee" of which he speaks must, therefore, have been the committee on the land purchase, appointed May 9th (on the petition then presented by Gen. Parsons), and consisting of Mr. Carrington and Mr. Madison of Virginia, Mr. King and Mr. Dane of Massachusetts, and Mr. Benson of New York. Three of these gentlemen, on July 9th, were not in the city, and hence there was no quorum. Mr. Madison and Mr. King were members of the Constitutional Convention then in session at Philadelphia, and Mr. Benson was not present at any session of Congress after May 10th, during the year. Mr. Carrington and Mr. Dane, the remaining members, were a quorum for conversation, if not for business; and, with Richard Henry Lee of Virginia, Mr. Kean of South Carolina, and Melancthon Smith of New York, were put on the committee appointed that day for drafting an Ordinance. Later in the day Dr. Cutler had a second conference with "the committee," which was probably the Ordinance Committee just appointed. He dined on Monday with Dr. Rogers, pastor of the new brick Presbyterian church, in company with six other clergymen. Knowing from his morning interview with the committee what business was before Congress, he was nervous, perhaps anxious, and left the table hurriedly. "It was with reluctance," he wrote in his journal, "that I took leave of this agreeable and social company of clergymen; but my business rendered it necessary. Attended the committee at Congress Chamber."

On the morning of Tuesday the 10th, he had a third conference with the committee, and later dined with Col. Duer, in company with Mr. Osgood, President of the Board of Treasury, Major Sargent, and several other gentleman. The anxiety about *business*, which caused him to hurry away from the dinner-table the day before, had disappeared,

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<sup>1</sup> *Ibid.*, I., 236.



and well it might, for he had in his pocket the draft of the Ordinance which was to be reported to Congress the next day, and which the committee had submitted to him for amendments. He was happy, and entered with zest upon the full enjoyment of the feast. With courteous pleasantry he compliments "Lady Kitty," the wife of Col. Duer (who was the daughter of Lord Sterling) and comments sportively concerning the other guests. "Col. Duer," he says, "is Secretary of the Board of Treasury, and lives in the style of a nobleman. I presume he had not less than fifteen sorts of wine at dinner and after the cloth was removed; besides most excellent bottled cider, porter, and several kinds of strong beer." The good Doctor was deceived by the bottled cider with ice in it, "supposing it was a species of liquor I had never before tasted."

These lively comments on the social life in New York at the time we could have spared, if he had told us something about the business done and conversation held at the three conferences with the committee on Monday and Tuesday, of which he gives not the least intimation. All business in and with Congress was then done in secrecy. It was regarded as a breach of faith to speak or write about matters which had not been officially promulgated.

Immediately following the description of the dinner at Col. Duer's house is this paragraph:

"As Congress was now engaged in settling the form of government for the Federal Territory, for which a bill had been prepared, and a copy sent to me, with leave to make remarks and propose amendments, and which I had taken the liberty to remark upon, and to propose several amendments, I thought this the most favorable opportunity to go on to Philadelphia. Accordingly, after I had returned the bill with my observations, I set out at seven o'clock, and crossed North River to Paulus Hook."<sup>1</sup>

Would Dr. Cutler have left for Philadelphia at that time if the draft of the Ordinance which had passed through his hands had not been satisfactory to him? and if, knowing

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<sup>1</sup> *Ibid.* I., 242.



at 22. End of 28 § 14 Article 2. Insert.

Article the sixth. There shall be neither Slavery  
nor involuntary Servitude ~~at~~ in the said Territory  
otherwise than in punishment of crimes whereof the  
party shall have been duly convicted — provided always  
that any person escaping into the same from  
whom labor ~~and~~ <sup>or</sup> Service is lawfully claimed in any  
one of the Original States, such fugitive may  
be lawfully reclaimed and conveyed to the  
person claiming his or her labor or service  
as aforesaid.

the disposition of the committee and of Congress, he had not been confident that it would contain the article prohibiting slavery? Mr. Dane, in his letter to Mr. King, said, that in reporting the Ordinance to Congress the next day: "I omitted the sixth article prohibiting slavery, as only Massachusetts of the Eastern States was present; but finding the house favorably disposed on the subject, after we had completed the other parts, I moved the article, which was agreed to without opposition."<sup>1</sup> The omission of the sixth article, obviously agreed upon in committee, shows how little he knew of the temper of Congress, and his lack of interest in the subject. It tends to confirm the suspicions of him which Dr. Cutler had expressed. On the ground that the sixth article of compact was restored to the Ordinance by his motion on the second reading of the bill, he claimed in his later years the whole credit of keeping slavery out of the Northwestern States<sup>2</sup>; and stated that search being made for the amendment which included the sixth article, it had been found in Mr. Dane's handwriting.

In view of its sagacity and foresight, its adaptation for the purpose it was to accomplish, and the rapidity with which it was carried through Congress, the most reasonable explanation, as it seems to me, of the origin of the Ordinance is, that it was brought from Massachusetts by Dr. Cutler, with its principles and main features developed; that it was laid before the land committee of Congress, on July 9th, as a *sine qua non* in the proposed land purchase; and that the only work of the Ordinance Committee was to put it in a form suitable for enactment. The original draft may have been made by either of the eminent men who were the directors of the Ohio Company—Rufus Putnam, Manasseh Cutler, or Samuel Holden Parsons; but, more likely, was their joint production. Dr. Cutler says that on the day he left Boston, he met Gen. Putnam, and "settled the principles on which I am to contract with Congress for lands, on ac-

<sup>1</sup> *New York Tribune*, Feb. 28, 1855; "Life of Dr. Cutler," I., 372.

<sup>2</sup> *Mass. Hist. Soc. Proceedings*, 1867-69, p. 478; Dane's Abridg., IX. Appendix, p. 76.

count of the Ohio Company." In passing through Middletown, Conn., on his way to New York, he spent one day with Gen. Parsons, and says in his journal: "It was nine o'clock this morning before Gen. Parsons and I had settled all our matters with respect to my business with Congress." They were the persons most interested in the enactment of such an Ordinance; and without it their scheme of Western settlement would have failed. The New England emigrants must feel that they were taking with them to the Northwest their own laws and institutions. Hence the draft was made largely from the Massachusetts Constitution of 1780, which these settlers had helped to frame. By this Constitution slavery was abolished, personal rights secured, institutions of religion and education fostered, and the most advanced principles in the settlement of estates and the administration of justice established. Mr. Dane, as the Massachusetts member of the committee and most familiar with its laws, was the person to whom the duty of writing the final draft, and reporting it to Congress, would naturally be assigned.

The formation of a new State in the Northwest by a large organized emigration from the East had been a favorite project among the people of New England since the peace of 1783. Col. Timothy Pickering formulated the details of such a scheme. One of its provisions was as follows: "That a Constitution for the new State be formed by the members of the Association, previous to their beginning the settlement; . . . the total exclusion of slavery from the State to form an essential and irrevocable part of the Constitution."<sup>1</sup>

On the second topic which I proposed to consider, namely: The sources of, and facilities for the study of Northwestern history, I will first call attention to the collection of original documents in the Canadian Archives at Ottawa, Canada, under the care of our associate, Mr. Brymner, whom we have with us, and who later in our sessions will speak to us concerning the collection.

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<sup>1</sup> "Life of Pickering," I., 548.

A large portion of these documents relate to the early history of the Northwest, then a part of Canada. Some of them have been used by Mr. Parkman; but, as a collection, it is little known to writers on Western history. It covers the period from the earliest settlement of Canada to recent dates, and is especially rich in documents of the last century relating to the Northwest, in reference to which our National and State archives are very weak.

The intelligence with which these documents have been collected, arranged, and calendared in print, is most creditable to the Canadian government, and to its accomplished archivist. Mr. Brymner has printed ten annual reports, comprising twenty-six hundred pages of descriptive lists of these documents.

The "Bouquet Papers," from 1757 to 1765, in thirty volumes, and the "Haldimand Papers," from 1758 to 1785, in 232 volumes, are among the most interesting in the collection. Col. Henry Bouquet was the ablest and most brilliant British commander in the French and Indian war, and the hero of the battle of Bushy Run. His life has never been written, and here is the material for the work.

Sir Frederick Haldimand came to America as lieutenant-colonel in 1757; was in Amherst's army at the capture of Montreal; was in the French and Indian war; had command in Florida in 1767; and in June, 1778, succeeded Sir Guy Carleton as governor and commander-in-chief of the Province of Quebec, which then took in the whole Northwestern Territory. He held the position until November, 1784. Every thing which occurred in the Northwest during his administration appears in reports to, or letters from, his head-quarters. His officers at Detroit, St. Josephs, Sandusky, Vincennes, Michilimacinac, Kaskaskia, and other Western posts, reported to him the current news and rumors of the day. The papers cover the whole period of the Revolutionary war.

After a custom of the time, which has now happily passed away, these invaluable papers were regarded as the private property of Gen. Haldimand; but in 1857 they were pre-

sented by his family to the British Museum. The Canadian government has been at the expense of copying, arranging, and printing a calendared list of them for the use of historical students. Our government, when it has made suitable provision for its own archives, should show a similar enterprise, copy them, and print those which relate to the United States. The State of Michigan, in the "Collections of the Pioneer Society," has begun the printing of such of the Haldimand papers as relate especially to the history of that State. The papers printed, however, relate quite as much to the whole Northwest as to Michigan. The entire collection ought to be printed by the United States government; or, if that cannot be done, by joint appropriations of all the Northwestern States.

On February 24, 1779, Gov. Hamilton, of Detroit, as has already been stated, surrendered himself prisoner of war to Col. George Rogers Clark, with Fort Sackville and its garrison—a victory which completed the capture of the Northwestern Territory from Great Britain. On that day Col. Clark wrote to Patrick Henry, Governor of Virginia, a despatch describing his painful winter march across the flooded prairies from Kaskaskia, the storming of the fort, and the victory. The letter he sent off by a messenger to Williamsburg. The messenger was waylaid by Indians and killed, and the despatch was supposed to be lost. Two months later, when he heard of the killing of his messenger, Col. Clark made another report to the governor, from Kaskaskia. The first despatch, having been lost for more than a century, comes to light in the Haldimand Collection,<sup>1</sup> with nine other letters captured at the same time. This precious document, giving details of the campaign and surrender which are nowhere else to be found, has never been printed; and, so far as I am aware, has never been used, except in a brief summary. To which one of the States appertains the duty of printing such documents as these? It is clearly the duty of the United States.

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<sup>1</sup> Brymner's Report for 1882, p. 27.

In the Department of State are many collections of public and private papers which would throw much light on Northwestern history, and that of the whole country, if they were made accessible to historical students. Among these are the papers of the old Continental Congress, the Washington, Franklin, Hamilton, Jefferson, Madison, and Monroe papers. Several of these collections have been bought by the government at a large cost. They are not generally arranged nor indexed. Some of the manuscripts are decaying, and are so faded as to be almost illegible. "The great and unique value of these papers," says the present Secretary of State, "and the risk involved in exposing them for examination, have been such as to preclude any arrangement by which ready access to them could be granted to all comers; while the clerical force of the Department is inadequate to respond fully to the many requests upon it for copies." Appreciating the importance of having these papers accessible, the Secretary has issued a circular to historical students stating that he had planned a scheme for their full and complete publication, and has asked for coöperation and support in his application to Congress for the means to accomplish it.

The Secretary of State has not brought his scheme to the attention of Congress, and hence we are not informed as to its scope and details. Important as is the object mentioned by the Secretary, the government should do something more. It should establish a separate and permanent "Department of Archives," or "State Paper Office," such as the other great nations possess. The State Department in its organization, tenure of office, number and training of its employés, and space assigned to it, is not equipped for managing a "Department of Archives." The general oversight of such a department would naturally fall to the Secretary of State; but the practical duties must be under the charge of trained experts not subject to removal with every change of administration.

The State Department has in its possession many valuable papers; but, as a collection of National Archives, it is



very meagre. The establishment of a "Department of Archives" would make this fact apparent, and stimulate the government to make it more extensive. Secretary Frelinghuysen, in commenting on the deficiencies of the historical records in the State Department, has said: "The inadequacy of the archives in my custody to represent the entire history of the establishment of this government has been remarked by every distinguished writer or student who has had access to them."

In connection with the papers of the Continental Congress in the State Department, it may be mentioned as a singular fact, as well as embarrassment to historical students, that the printed Journals of the Continental Congress are not what they purport to be; but are selections, made by the old Secretary, Charles Thomson, on some capricious and incomprehensible principle, from the business done by the old Congress. Legislation on matters of the highest importance is as likely to be left out, as that on trivial subjects.<sup>1</sup> There is a chance of finding the missing records among the loose Continental papers in the State Department; or in another publication called "Se-

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<sup>1</sup> The following instances, all relating to a single subject—an Ordinance for the Organization of the Northwestern Territory—will show the character of the omissions: There is no mention in the Journals of a report made by the grand committee of the House on the 24th of March, 1786; nor of a report made by another committee, of which Mr. Monroe was chairman, on the 10th of May, 1786; nor of the appointment of another committee to propose a plan, on the 19th of September, of which Mr. Johnson, of Connecticut, was chairman; nor of the report of this committee made on the 26th of April, 1787. No mention is made in the Journals of the fact that on the 9th of July, 1787, another committee, of which Mr. Carrington of Virginia was chairman, was appointed to prepare an ordinance, who two days later reported the actual Ordinance of 1787, which was enacted two days still later. The fact that the sixth article of compact prohibiting slavery, which had been omitted in reporting the bill, was restored on the 12th of July, is omitted.

Coming down a week later to the Ohio land purchase, the Journals make no mention of a bill which Congress passed on July 19th, and which Dr. Cutler rejected; nor of another bill which Congress passed on July 23d, and was also rejected by him. July 27th, still another bill, on terms which Dr. Cutler dictated was passed, was accepted by him, and the contract was ratified; but the Journal for that day makes no mention of these facts. As if, however, by an after-thought, the matter was inserted in the appendix of the volume.

cret Journals of Congress"; or in still another, "Debates in the Congress of the Confederation," among the "Thomson Papers," printed in the New York Historical Society's Collections, for 1878. It is impossible, from the incompleteness of the printed Journals of the old Congress, to trace thoroughly any matter of public business. On a day when it is known, from other sources, that important business was done, the record in the Journals is barely this, and nothing more: "Congress assembled; present as yesterday." A new and revised edition of the Journals of the Continental Congress is greatly needed for the historical study of that period. The omissions can largely be supplied from the Continental papers in the State Department, and from other sources.

The several Secretaries of State since 1880—Mr. Evarts, Mr. Frelinghuysen, and Mr. Bayard—have called the attention of Congress to the fact that the public and private archives of Europe contain manuscripts of the highest interest to our country, of which no copies, calendars, or descriptive catalogues have ever been made. It is also well known that Mr. B. F. Stevens, an American, and officer of the State Department, residing in London, has for many years been engaged in searching the archives of Great Britain, France, Holland, and Spain, by special favor of their custodians—granted by reason of his official relations with our State Department—has made an index and descriptive calendar, and in many instances *fac-simile* transcripts, of more than one hundred thousand documents relating to American history. They are chiefly between the dates of the treaty of Paris, in 1763, and the treaty between Great Britain and the United States, in 1783—the interesting period of our country's evolution from colonial dependence to State and National sovereignty. Every Secretary of State has warmly approved the work of Mr. Stevens, and has recommended that Congress make a suitable appropriation for the publication of calendared indexes or full transcripts of these hitherto inaccessible documents.

Nearly every historical society in the land, and many eminent individuals, have memorialized Congress for the same object. The Joint Committee on the Library, to whom the matter was referred in the second session of the 49th Congress, unanimously reported such a bill ; and if it could have been reached in the pressure of business at the close of the session, it undoubtedly would have passed. The Joint Committee in their report to Congress said : " Restrictions upon the access to, and use of, most of this material are so rigorous, and the expense is so great, that hitherto only few and fragmentary portions of it have been copied, or otherwise made available for historic or even diplomatic use."

Mr. Stevens is still pursuing the work, and is maintaining at his own expense a well-trained staff of assistants and translators who are skilled in the obscure handwriting of old French, Dutch, and Spanish manuscripts. For this outlay of time and money he has had no other remuneration than the appreciating and friendly sympathy of the State Department and the gratitude of American students of history.

In the absence of an appropriation from Congress, he now proposes to issue to subscribers a limited edition of *fac-simile* transcripts of the more important documents in photo-lithography, with an English translation when the document originated in another language. A great government like ours should not require the students of its own history to supply themselves with this material at private expense. Something of the enterprise of the Canadian government should animate the Congress of the United States in the establishment and support of a " Department of Archives " which will be worthy of this Nation.

#### Dr. Loring's Remarks on Dr. Poole's Address.

At the close of President Poole's address the Hon. George B. Loring asked the privilege of discussing, for the five minutes allowed for debate, the relations existing between Menasseh Cutler and Nathan Dane, which he thought

might perhaps be misunderstood. He desired to avoid an issue with the President, and would not criticise the able and interesting paper to which the Association had just listened, as antagonizing such high authority might be considered presumptuous in him. But as a citizen of the State and county in which Cutler and Dane were born, and which they have made illustrious, and as a careful student of the Ordinance of '87 and the settlement of Marietta, he asked leave to say a word with regard to those distinguished men and the great events with which they were connected. He proceeded to describe the character and harmonious action of both, and to discuss the steps by which the ordinance was perfected and adopted. The time allowed for discussion was so short that he has communicated his views, as presented by him at Marietta on the occasion of an anniversary of the settlement of the town, in 1883, as follows:

The cession, purchase, and settlement of lands in the Northwest Territory constitute a most interesting chapter in the history of our country. We look back upon the cession by the State of Virginia of this vast domain with admiration. We turn to the purchase of such wide possessions, in a time of financial disaster and ruin, with deep interest, as indicating the confidence and energy of our ancestors. And we contemplate the mode and provision of settlement with the same pride that fills our breasts as we recall the devotion and resolute zeal of Plymouth, and rehearse the declaration of principles on which our fathers fought the war of the Revolution. That the attention of an emigrating people should have been turned to the broad landed possessions lying within their reach on the western frontier is not surprising. That a bankrupt government should have readily considered any sound proposition by which a bankrupt people could extricate their national treasury from debt and help themselves into prosperity was to be expected of those who had learned their lessons of thrift during the poverty of peace and the stress of war. That the organic law under which the settlement was made was in accordance with the civil experience and education

of that remarkable body of men, who brought their own customs, doctrines, and institutions to this shore of the New World, is now manifest. To many it was manifest even in their day; evidently, however, not to all. Richard Henry Lee wrote to Washington on the 15th of July, 1787: "I have the honor to inclose to you an ordinance that we have just passed in Congress for establishing a temporary government beyond the Ohio, as a measure preparatory to the sale of lands. It seemed necessary for the security of property among uninformed, and, perhaps, licentious people, as the greater part of those who go there are, that a strong-toned government should exist and the rights of property be clearly defined. Our next object is to consider of a proposition made for the purchase of five or six millions of acres in order to lessen the domestic debt. An object of much consequence this, since the extinguishment of this part of the public debt would not only relieve us from a very heavy burden, but, by demolishing the ocean of public securities, we should stop the mischievous deluge of speculation that now hurts our morals and extremely injures the public affairs."

This view of the ordinance as a measure of finance may have been correct; but of the people for whom it was to become a law, and of its moral purport, it is incorrect and mistaken. The Ordinance of '87 was the result of long and careful thought, guided by that deep understanding of the value of human freedom and personal prerogative which had thus far characterized every popular effort of the American people. It was one step in the progress of popular government, and stands in the line with the Protest at Spire, the compact on the *Mayflower*, the resistance of the colonies, the Declaration of Independence, and the Proclamation of Freedom. The work of engrafting it upon the civil system of the young commonwealths which were to be enrolled under the flag of the American Union fell into the hands of men who were not speculators, or mercenaries, or criminals, or voluptuaries, but who were a sincere, honest, thoughtful, and cultivated body, who went forth to

their work of founding a state from the pulpits and town-meetings and colleges and battle-fields of the most earnest and defiant corner of the earth known at that day. The growth of the ordinance to perfection was slow. In 1784, Jefferson, as chairman of a committee, presented a plan for the government of this Territory. In his ordinance he provided that "after the year 1800 of the Christian era there shall be neither slavery nor involuntary servitude" in any of the new States carved out of this acquisition of empire to the republic. This provision he hedged about with all possible constitutional protection which could bind Congress. This section of the ordinance was lost, however,—the votes of South Carolina, Maryland, and Virginia being against it, North Carolina being divided, and the four Eastern States, New York, and Pennsylvania being for it. The defeat was a source of great mortification and distress to Jefferson. He never forgot it. He denounced bitterly those who voted against the proposition of freedom, and in referring to it he said: "The friends of human nature will in the end prevail." This ordinance, "shorn of its proscription of slavery," was adopted, it is true; but it remained in force but three years, and died when the great Ordinance of '87 became a law. In 1785, Timothy Pickering, whose career in the Continental army, in Cabinet, in the House of Representatives, and in the Senate, stands among the foremost of his time for ability, integrity, and courage, induced Rufus King, then in Congress, to propose once more the exclusion of slavery from the Territories. Mr. King's resolution, offered March 16, 1785, went to the Committee of the Whole and was never heard of afterwards. On April 26, 1787, a committee consisting of Mr. Johnson of Connecticut, Mr. Pinckney of South Carolina, Mr. Smith of New York, Mr. Dane of Massachusetts, and Mr. Henry of Maryland, reported an ordinance which was never voted on and which contained none of the sanctity of contracts, none of the sacredness of private property, none of the provisions for education, morality, and religion, none of the principles of freedom to be found in the ordinance as it now stands in

all its immortal glory. Meanwhile the Ohio Company had been organized in Boston. In January, 1786, Rufus Putnam and Benjamin Tupper, issued a call for a meeting of organization and the association commenced its work. The proposition to purchase 1,500,000 acres of land at one dollar an acre, was, in those days of bankruptcy and poverty, startling. That it should not have been entirely successful is not surprising. But half the sum proposed was raised, and Congress from time to time passed acts relieving the embarrassed company, which secured in the end nearly a million acres of land in three patents issued to Manasseh Cutler, Robert Oliver and Griffin Greene in trust for the Ohio Company.

In securing the contract for 1,500,000 acres of land in the Northwest, which was provided for by Act of Congress July 17, 1787, and in the passage of the ordinance for the Territory on the 13th of the same month, the controlling mind was evidently that of Manasseh Cutler. He had two objects in view: 1st, the settlement of the new Territories of the United States for the benefit of those men in the Eastern States who had been impoverished by the war of the Revolution; and 2d, the foundation of new States there on the best system of government known to the States already in the Confederation. He was a careful and able student of public affairs. His scholarship at Yale College was high. His mind grasped the facts revealed and the processes required by scientific investigation, and the problems involved in political and theological discussions with equal facility and power. He exerted a commanding influence wherever he went. Commencing life on the high seas, he educated himself for the bar and practised for a short time in the courts of Massachusetts. Turning his attention then to the study of divinity, he took charge of a pulpit in Hamilton, Massachusetts, and enrolled his name with that long list of New England clergymen, who in that early period exerted a most powerful influence in the colonies, who called around themselves the cultivated men of the times, took part in all momentous endeavors, and who

sent into every walk in life sons whom they had educated in the colleges out of their narrow incomes and who performed most valuable service as merchants, jurists, physicians, statesmen, divines. As chaplain in the Continental army, as member of the American Academy of Sciences, as negotiator for the purchase of this great Territory, as adviser, pioneer, lawgiver for those opening States, he has left an example which will always be admired, an influence which will always be felt. His pulpit was but twenty miles from Boston. Is it not reasonable to suppose that he listened to the high debate on the great issues of the hour by Samuel Adams, and Josiah Quincy, and John Adams; to the masterly argument of James Otis on the Writs of Assistance; to the voice of the people heard in those defiant town-meetings whose resolves foreshadowed the Declaration of Independence, and reached the ear of the immortal author. He had ridden on horseback from his home in Hamilton to meet the retreating Bristol soldiery as they fled from Lexington and Concord before the fire of the "embattled farmers." He heard the guns at Bunker Hill, mourned for Warren as for a friend, carried comfort and encouragement into the patriot army during the trials of the war. He was surrounded by great men who always turned to him for advice and counsel. Timothy Pickering, the noble Roman of the war was his neighbor. General Glover was one of his early companions. Elbridge Gerry, the young and fearless patriot, was the legal adviser of his people. The home of Nathan Dane was within a few miles of his own. Samuel Osgood, the chairman of the Board of Treasury of the United States, with whom he made the contract for the purchase of these lands, was a citizen of the county of Essex, in which this distinguished group resided, and where Cutler had his home. Is it surprising that when Winthrop Sargent organized his association for the settlement of Ohio, he should have sought the aid and advice of Cutler, whose energy and capacity were well known through all the eastern colonies? Is it surprising that when he had enlisted in the work, the burden should



have fallen on his shoulders? At his touch the enterprise was filled with new life. The attention of Congress was at once arrested, and turned to this important measure of multiplying the States in the Confederacy, as it was developing into a republic. The ordinance which Jefferson and King had failed to carry, and which was incomplete enough as it came from their hands, took shape at once and commended itself to Congress. With his contract in one hand, and his ordinance in the other, he appealed to every sentiment of patriotism, interest, and humanity, as each presented itself among the legislators with whom he was forced to deal. In his proposition there were an extension of country, an absorption of colonial securities, opportunities for speculation, the increase of free territory, on the value of which the ablest statesmen north and south agreed,—and he applied each one of these motives as necessity required. Of his ability to fulfil his contract no man had a doubt. Nor could any member of Congress be surprised at the demand which he would make, that the fundamental law of the Territory should conform with the highest and most humane law of the land. The ordinance which satisfied him and his associates secures religious freedom to all; prohibits legislative interference with private contracts, secures the benefit of the writ of habeas corpus, trial by jury, and of common law in judicial proceedings; forbids the infliction of cruel and unnecessary punishments; declares that as religion, morality, and knowledge are necessary to good government and the happiness of mankind, schools and means of instruction shall ever be encouraged; provides that the Territories shall remain forever a part of the United States; makes the navigable waters free forever to all citizens of the United States; provides for a division of the Territory into States, and their admission into the Union with republican government; and declares that neither slavery nor involuntary servitude shall exist within the Territory. Many of these provisions were drafted from the Constitution of Massachusetts of 1780. That the views contained in this ordinance occupied the mind of Cutler at that time there can be no

doubt. He was engaged in establishing a republican government over a vast extent of territory, which he felt would one day, not very far remote, form a most important and influential portion of the United States. He was not to be satisfied with compromises, and he knew, moreover, from the propositions made in the past with regard to the ordinance, that compromises were not necessary to success. He had also ascertained the personal interest in Congress with regard to the occupation of the lands along the fertile valleys of Ohio, and he estimated the strength of his cause accordingly. Every thing connected with the enterprise in which he was engaged roused all his powers, his skill, his wisdom, his adroitness, his faith in republican government; and he summoned all to his work. In the task of framing and presenting this ordinance to Congress he had a most important and powerful ally on the committee to whom the matter was referred. Nathan Dane represented his district in Congress, was his neighbor and friend in Essex County, Massachusetts, and had been all his life under the same social and civil influences as had operated to mould his own views and develop his own character. A calm, conservative, dispassionate, able, and accomplished lawyer, Nathan Dane had not given his mind to the construction of governmental policies, or the reforming of abuses. He had large experience in the Legislature of Massachusetts, and afterwards a short time in the Continental Congress. While Cutler was engaged in rousing the people to resist all acts of oppression, and "rushing to the fray" at the sound of the first gun, and exhorting his flock from the pulpit, and surveying the heavens, and exploring the earth to discover the laws of nature, considering the unoccupied lands of the West as a home for the swarms which were obliged to leave the Eastern hive, and exercising his diplomacy in purchasing those lands, his wisdom in advising the emigrants, and his love of adventure by a solitary journey through the wilderness to the home of their adoption,—Dane was a scholar of high reputation in Harvard College, a diligent student of law in the quiet and cultivated mercantile town of Salem, a

lawyer in the elegant repose of Beverly, a good legislator, a learned expounder of the law, possessed of "great good sense and a sound judgment," "faithful to all his duties," and enjoying universal confidence in his "industry, discretion, and integrity." Cutler was fortunate in having such an advocate on the floor of Congress, and Dane was fortunate in having such a cause and such a client. A proposition which in the hands of Jefferson and King had failed as an apparent abstraction, became a vital issue when presented as one of the indispensable terms of a contract between a large-minded practical philanthropist and the government of a rising republic, called upon to decide the question of freedom at the very threshold of its existence, Dr. Cutler presented himself at the doors of Congress with the terms of purchase in one hand and the terms of settlement in the other, and both were accepted. An unsuccessful measure, which, on two previous occasions, Dane had acquiesced in as a member of the committees of Congress having the matter in charge, became suddenly, under Cutler's force a national necessity. And when the measure was adopted and passed into the great body of American law, Cutler won eternal gratitude and immortal honor as the founder of free institutions in the Northwest Territory, and Dane secured the high distinction of having brought the measure to a successful consummation. Upon the great cluster of States, whose proud and prosperous career was opened by these two statesmen, there rest obligations to their memory which should never be forgotten—obligations which may not be divided between them, the co-workers in this great social and civil accomplishment, in which the designs of one would have been powerless without the coöperation of the other.

Dr. Loring referred also to the fortunate association of Cutler, the thoughtful statesman and philanthropist, and Rufus Putnam, the most accomplished engineer of his time, and General Parsons, the brave soldier and sound lawyer, in the work of settling the Northwest Territory.

THE INFLUENCE OF GOVERNOR CASS ON THE  
DEVELOPMENT OF THE NORTHWEST



## THE INFLUENCE OF GOVERNOR CASS ON THE DEVELOPMENT OF THE NORTHWEST.

BY Professor A. C. McLAUGHLIN, University of Michigan.

Lewis Cass was governor of Michigan Territory and superintendent of Indian affairs from 1813 to 1831. During a great part of that time he had control of Indian posts in Wisconsin, Illinois, Indiana, and Ohio, and in his capacity as superintendent or as special commissioner came into contact with the Indians of the whole Northwest. His after career as cabinet officer, senator, diplomat, and candidate for the presidency has thrown into the shadow, or more properly, perhaps, over-clouded his work of these eighteen years. Yet one may venture to say that those were the years of his greatest usefulness, and that that work has left the most enduring mark on the history of the country.

His name, for various political reasons, has been somewhat slightly passed over in the last twenty years by the citizens of the State with which his name has been most closely connected. He is, however, more intimately associated with the history of the Northwest than is any other man, and to him in large degree is due its progress and development. He treated with the Indians with a fairness that saved the country from a disastrous war during his long governorship. He peaceably acquired title to nearly all the Northwest. He shaped the Indian policy of the general government. He called attention to the wealth and resources of the country. Under his guidance a popular territorial government was quietly put in operation. Against the hostility and craft of the British he upheld the dignity of the United States on the Northwestern frontier. To him Michigan owes to an extent probably never appre-

ciated, certainly to an extent never stated, the surveying of her lands, her settlement and rapid growth to Statehood and to State prosperity.

Only a few items in his credit account can be noticed, but I desire to suggest a few where justice has perhaps never been done even in the two eulogistic biographies written in his lifetime; and I will support my position with statements from the public documents, but especially by facts gathered from a series of Cass's letters hitherto unpublished, that will, I hope, throw some additional light on his work and its influence.

The early life of Cass is connected with Northwestern history. He spent his youth and early manhood in Ohio, was there admitted to the bar, and in 1807 was appointed U. S. Marshal. He was elected to the State Legislature in 1805, and won the attention and regard of President Jefferson by introducing a resolution assuring him of the loyalty of the State. On the outbreak of the war of 1812 he volunteered and accepted a colonel's commission. He was actively engaged the first year of the war, and showed boldness, promptness, and decision, qualifications of a good soldier and efficient officer. Greatly to his chagrin he was included in Hull's surrender, though not at Detroit at the time. His indignation knew no bounds; it is said that he broke his sword that he might not be obliged to give it to the British, and when he was released from parole in the early part of 1813, he was ready to take command once more, and he acted as brigadier-general under General Harrison in the operations of the Army of the West, and, being present at the battle of the Thames, won special mention for valiant service in General Harrison's report to the Secretary of War. He was left in command of the Northwest frontier in the latter part of 1813, and received at that time his appointment as Governor of Michigan Territory. Michigan then included all that part of the Northwest Territory north of a line drawn easterly from the southerly end of Lake Michigan till it intersects Lake Erie, and east of a line drawn through the middle of Lake

Michigan. In 1818 the territory that is now Wisconsin was added to Michigan, and came under his governorship.

His early administration was beset with difficulties. He was possessed of civil but not of military authority. Detroit was in constant danger of attacks by the British and Indians, and though he had no power to take necessary precautions, or to command the few troops there, in case of attack, he nevertheless felt that the obloquy of surrender would fall upon him. We now find him urging the war department that he be given a military command over the troops at Detroit, and in the early part of 1814 he received authority, in case of invasion, and in absence of a general officer of the regular army, to take command as he desired. As long as the war lasted he kept himself informed of the movements of the Indians and the threatened and executed movements of the British, and with his "Pet Indians" he seems to have rendered valuable services in assisting the army and in protecting the country. The British encouraged their savage allies to wage warfare, destructive and barbarous, and in consequence the settlers in the Territory fled for refuge to Detroit, asking support and protection at the hands of the young governor, who was but feebly aided by the Washington authorities.

The end of the war saw things in a pitiable condition, and peace scarcely seemed to smooth his path. Three problems presented themselves, demanding careful attention and prompt solution, each of these requiring painstaking work and the best use of that ability of which events soon proved Cass was well possessed. His work for years may be said to have been largely confined to these problems, and his policy and aims were shaped by the limitations they presented. The first: the destitution of the inhabitants of the Territory. The second: the British interference in a dictatorial way with the rights of United States citizens. The third: the hostility of the Indians, who were constantly incited by the British authorities to an attitude of hostility to the United States government and the settlers in the Western territories.



The destitution of the people was appalling. Before the war affairs had been in a disorganized condition; for the settler, not having good title based on government survey, did not improve his land and encourage immigration by his success. After the war the Territory was a burden on the government. It is surprising that the settlers remained or managed to live at all. The border warfare had been, as Cass testifies, savage and cruel in the extreme, and so destructive that the means of gaining livelihood remained to very few. Provisions were so dear that they were practically unattainable to the poor, and Mr. Woodward, one of the judges of the Territory, is authority for the statement that families at the River Raisin were obliged to subsist on chopped hay boiled. For years Detroit was the most expensive place of residence in the United States, and for years many inhabitants of the Territory were mainly supported by largesses from the general government. The fences, and in some instances the floors of the houses, of the Raisin settlers had been burned for fuel, and the Indians had stolen their clothing and any utensils that they esteemed worth the taking. Four fifths of the inhabitants were of Canadian descent, many of them French-Canadian voyageurs, who as game disappeared settled along the banks of the streams, and there tried to eke out a livelihood by farming, with an ignorance of agriculture that would be scarcely credible had we not the word of Cass himself to stimulate belief. They hauled the manure to the ice to be carried away in the spring. They knew neither how to weave nor to spin. The making of soap for family purposes was but a short time before a novelty that they wondered at, and even the wool of the sheep was thrown away, and not a pound manufactured in the territory by a person of Canadian descent. The extreme poverty of the settlers was largely due to their isolation. For even Detroit was then scarcely accessible. There were no roads worthy the name, and the Black Swamp that must be traversed in going from Cleveland to Detroit was said in those days to warrant an attack of fever and ague if one but rode through its malarial air.

Cass desired that the authorities at Washington should appreciate the condition of the country. Michigan at that time was a point for attack and a burden on the government, and he insisted that one policy, and only one, could make the necessary transformation. Lands must be surveyed and immigration encouraged in order that men of thrift and intelligence might by example and success lead the retired voyageur and trapper to an elemental knowledge of farming. Various sums were turned over by the government to be expended by Cass for the benefit of the suffering poor. His task in seeing this money rightly distributed was no slight one, and there seems to be no complaint of unfaithfulness or inattention. Insisting that help of this sort was a relief, but not a remedy, he began in this connection endeavors to secure the surveying and sale of lands with an earnestness and a zeal that at last had their effect. And he was gratified by seeing Michigan well on the way to Statehood before a call to other duties took him from the charge of her territorial government.

The letters that passed between Cass and Edward Tiffin, the Surveyor-General at Chillicothe, Ohio, indicate the policy and work of Cass and some of the difficulties he had to overcome, and it may be worth while to give them somewhat at length, inasmuch as his efforts in this direction have heretofore never been more than suggested. In 1812 Congress enacted that 2,000,000 acres should be selected in Michigan, to be given as bounty lands to volunteers in the war. At the close of the war 68,000 men were entitled to 160 acres each, in all 10,880,000 acres. Had these 2,000,000 acres been surveyed; had even a small portion come into the possession of actual settlers, the Territory would at once have acquired an independent and secure position, and its early admission as a State would have been assured. In May, 1815, Tiffin wrote Cass that he wished to run the line agreed on at the treaty of Detroit from the mouth of the great Au Glaize River due north. He said he had concluded to make it a fundamental meridian line, to bound the 2,000,000 acres on the west, and he desired also to run

the southerly line from the southerly end of Lake Michigan to Lake Erie, as soon as he could get the consent of the Indians. Having suggested that this consent should be secured by the governor, he was informed in July that the Indian chiefs were to meet in Detroit, and Cass expressed little doubt of his ability to persuade the chiefs to accompany the surveyors in running the line from the Au Glaize, assured the surveyors there was no danger of Indian hostility, and urged that they be in readiness to move. Unfortunately during the rest of the summer there were various hindrances to the accomplishment of their end. A conference held at Detroit was attended by Indians from the west, and the surveyors were instructed to await the result of it, so that not till the 26th day of August was Cass enabled to write to Tiffin that the Indians were less numerous than expected, and evinced no objection to the survey; and he advised that every effort should be made to have at least extreme lines run that autumn. September 4th every thing at Detroit was arranged, Tiffin was urged to begin the work of surveying at once. At least the extreme lines, Cass said, should be run before winter, to indicate that there was earnestness of intention. It was not, however, till the 19th of that month that the surveyors started, and the prospect of a completion of their task that year was not encouraging. These delays and the persistent urgency of Governor Cass are interesting items in Michigan's history. The report that was finally made to Josiah Meigs, Commissioner of the General Land Office at Washington, might not have been made had the governor's persistence had its proper effect, and had the surveyors started out to their task at an earlier day. November 30th Tiffin reported: "The surveyors who went to survey the military land in Michigan Territory have been obliged to suspend their operations until the country has been sufficiently frozen to bear man and beast." Enclosing a description of the country, rendered by the surveyors, who had returned worn out by fatigue and suffering, he advised that the government give the soldiers land fit for cultivation, asserting that the two million acres appro-

priated would not contain one hundredth part of the quantity or be worth the expense of surveying it. The report sent in by the surveyors can scarcely be accounted for, save on the theory of deliberate falsehood, induced perhaps by the dread of exposure and fear of the Indians. Michigan was represented as not much better than a vast swamp or morass. The part not swampy was desolate and barren, and the small marshes between the sand-hills were in general covered with treacherous grass, alluring the unwary with the belief that there was solid ground beneath. And so the conclusion was, that perhaps not one acre in a thousand would be fit for cultivation. Because of these representations, the Commissioner of the Land Office, at the suggestion of the Secretary of War, recommended that the two million acres be surveyed in Illinois, and the President, by special message to Congress, February 16, 1816, suggested the designation of other lands: "As the lands in Michigan Territory are so covered with swamps and lakes, or otherwise unfit for cultivation, that a very inconsiderable portion can be applied to the land grants."

Governor Cass now put forth every effort to counteract the influence of these statements. In spite of the discouraging accounts, he redoubled his efforts to obtain a survey and sale, in order that immigration, however slight, might be attracted, that the falsity of the reports might be proved by the settlers themselves. He urged that settlement was the only method of solving the problem that Michigan's condition presented. The distress of the few settlers whom the Territory then contained could not be hidden, nor did he desire to hide it. But with what must have seemed paradoxical persistence, he advocated, as an end and a means, further immigration to lands that had been officially declared practically uninhabitable—to lands whose inhabitants were at that time dependent on the General Government for support. In March he wrote to the Commissioner (Meigs) on the necessity of surveys if the Territory was to be aught save a burden on the commonwealth. "The quality of land," he says, "has been grossly

misrepresented. From the reports of those in whom I can place confidence, and from my own observation, I think it will admit a considerable population." He also called attention to the confusion resulting from the destruction during the war of all plats of private claims that had been deposited at Detroit. Again in June he wrote, showing at length that the surveyors' reports were false, and asked earnestly for a survey of land between the Miami country on the south and Lake Erie and Detroit River on the east. Without going further into details, it is sufficient to state that his efforts were successful, and April 3, 1818, we find him recommending immediate sale of lands which he now understands are ready for the market. However, he was not yet content. The lands offered for sale were not those most fit for cultivation, and several letters were sent to the Secretary of War, asking for sale of lands in the southeast portion of the Territory. He especially desired that the tier of townships along the River Miami of the Lakes should be surveyed, and brought into the market at once. If these lands had been early surveyed, as Cass desired, they would from the first have been recognized as part of Michigan, and perhaps the Toledo war would have had no place in history. And it is interesting to notice that the governor and judges of the Territory at this time (1818) sent into Congress a long memorial, stating Michigan's claim to the land along the Miami. After giving at length the legal basis of Michigan's claim, the memorialists assert that it must not be said in after years that they did not protest in time.

It is gratifying to notice the progress of the Territory from this time on. The decade from 1820 to 1830 was one of prosperity, and we read in Niles that flour was actually transported from the uninhabitable waste, Michigan, and the editor was ready to prophesy that the Territory would be ready for Statehood in 1830.

The development of the Northwest was affected by the presence of British troops in Canada, and of British war vessels on the lakes. The authorities at Malden, with mis-

directed zeal, constantly attempted to project their authority into United States territory, and the British commanders on Lake Erie, in a peculiarly annoying way, continued to exercise the right of search, that had not been formally given up by the Treaty of Ghent. There is something inspiring, as well as amusing, in the bold attitude of Governor Cass; for it was soon discovered that with a starving Territory at his back, he knew the rights and privileges of his fellow-citizens and was ready to be as bold as need be in defence of them. There can be no doubt, I think, that it was the express intention of the English to dominate in the west just as long as their shrewdness might enable them. And had it not been for the dignified opposition of Michigan's governor, the traffic on the lakes would have been for some time subject to unwarranted interference, and the settlers in the Northwest would have remained for a much longer time in dread of the Indians that British presents incited to hostility.

One or two instances of direct interference disclosed by Cass's letters will indicate the extent of the danger and the promptness of the governor's action, and I shall then pass on to the more dangerous and more insidious attempts, when Cass's sagacity and success were of the greatest value to the whole Northwest.

One of the first subjects of dispute was the treatment of Mr. Chittenden, who had been left at Amherstburg by the United States authorities in charge of some of the government goods. He had been assaulted and driven from Canada, the Indians threatening to shoot him if he returned, and without semblance of trial he had been deprived of property, as well as of his right of residence. Nothing like a decent respect for national authority, not to speak of individual rights, could sanction the treatment he received. Col. James was for some time the choleric colonel with whom Cass had to treat on these subjects, and the correspondence that ensued in reference to the issue just mentioned, disclosing throughout asperity on the one hand and dignified persistence on the other, is indicative of their whole intercourse.

But perhaps the best illustration of the existing situation is presented by an occurrence of September, 1815. There had been a robbery and desertion from one of his Majesty's fleet, and a Lieut. Vidal, with a boat's crew, was sent out to look for the culprit. Found on Michigan soil, he was seized and sent on board; but the lieutenant, caught in the act by the militia, was taken before their commander and by him turned over to Cass as the head of the civil authority. The violent complaints poured in by Sir Edward Owen, commanding his Majesty's fleet on the lakes, served only to draw from Cass a calm disquisition of the rights of a sovereign nation, that did not tend to cool the anger of the British commander, but did serve to sustain the dignity of the country. Vidal was convicted and fined, and though Monroe, after some correspondence between the two governments, ordered the fine remitted if the money had not been paid in by the offender, he expressly stated that he considered the sentence and conviction just. Before Secretary Monroe's letter was received, however, the fine had been covered into the yearning treasury of the Territory.

Various attempts at this time to search American schooners on their way to and from Detroit aroused intense indignation, and after remonstrance from Governor Cass himself depositions on the subject were taken to be sent to Washington. During May and June at least four vessels were boarded from mere wantonness, and Cass asserted that the commander claimed he was acting under orders. However that may be, there seem to have been no similar offences at the time. There were various other acts deserving the epithet arrogant, that called forth the energetic opposition of Governor Cass, one of which deserves mention, inasmuch as it furnishes us with the intent of unwarranted interference and gives in itself the purposes of the British government. October 4, 1815, an Indian was shot near Grosse Isle by one of a company of men from Detroit. A correspondence was at once begun between Col. James and Governor Cass, in which the English officer demanded the punishment of the alleged murderer, and was told at

various times, and with considerable detail, that an English officer or the English government had nothing whatever to do with an act committed on United States soil. Colonel James finally made the assertion (November 1st) that the Treaty of Ghent amply provided for the Indians who had been in alliance with Great Britain, and that even those tribes whose country extended as far as the Mississippi, and who were included in the treaty, looked to him for the fulfilment of the solemn agreement which assured to them ingress and egress through all parts of America, such as they had had previous to the year 1811. October 18th the authorities of the Western District of Upper Canada offered a reward of \$500 to be given to any person securing the perpetrator of the murder they alleged had been committed. A counter proclamation, issued by Cass on the 27th of the same month, had the true ring; for the whole affair was all the more provoking, because the Indian was killed in self-defence, as all testimony went to show. Some clauses from a letter sent to Secretary Monroe give Cass's view of the situation. "The proclamation," he says, "was due to the ungovernable temper of James and designs, which every day more fully discloses, of using every incident which occurs as a means of acquiring and strengthening their influence over the Indians. The Indian was killed as much in this Territory as if in Washington. On the other side of the river the design is avowed of serving their process upon any part of the river or upon any of the islands of it. The tenor and object of their measures is to teach the Indians to look to them for protection. Much sensation is thereby excited, and it is surprising with what eagerness they gave credit to the report that the British would punish the man who killed their countryman. Canada's currency is pounds, and dollars offered show the effect desired to be produced." In a letter of November 15th, also to Secretary Monroe, it is stated that the theory that the Treaty of Ghent gave right of interference, was lived up to and supported by practice, and it is suggested that experience might teach the government where the practice if continued would eventu-



ally lead. Mr. Smith in his life of Cass has referred to this incident as occurring in 1814, before the Treaty of Ghent, therefore, and thus has lost the whole force of the situation.

This was one of the last attempts openly and avowedly to attract Indian allegiance, by actual interference in governmental affairs of the western Territories. But covertly and silently the efforts to control the Indian alliance were continued. In case of another war with the States, England desired to be sure of the assistance of those savage allies who had rendered barbarous and effective service in the past. To counteract these efforts was the greatest task presented to Governor Cass. It was a task that called for all his shrewdness and ability, tested his patience, and confronted him with desperate regularity throughout the whole of his governorship. He used every exertion to win the Indians from British presents and British tinsel. But his undertaking was difficult, and at times hope seemed impossible of realization.

No development of the Northwest was possible, and little immigration could be expected, till it was known that the Indians respected or at least feared the power of the United States. When we see the ability with which Governor Cass managed the Indians, impressing them with a sense of the power and watchfulness of their "Great father at Washington," gradually drawing them from British influence by mingled boldness and adroitness, coupled with a rare knowledge of Indian nature and Indian mode of thought, other evidences of his ability and his other services seem small in comparison, and had he performed no other work, he would have merited the profound gratitude of the Northwest and his country.

For at least fifteen years after the Treaty of Ghent, the English endeavored to retain their influence over the tribes of the Northwest. December 4, 1823, nearly ten years after Cass had been ordered to cease giving presents to the Indians from the United States Government, we find him writing Calhoun, then Secretary of War, that he will use every effort which prudence dictates to prevent the Indians

from passing through the country to Malden to receive British presents, and that a celebrated half-breed as British Indian agent has just passed through the country for the purpose of extending British influence among the Indians. As late as September, 1829, sixty tons of presents were sent to Drummond's Island for the Indians. Some of the Indians within our Territories seem to have been partakers of these gratuities, for large bodies of them passed through lower Sandusky to receive the presents annually distributed at Malden. But these facts argue the difficulty of the task rather than a lack of success. Nothing but an intimate knowledge of Indian nature, and untiring energy, heroic courage, remarkable shrewdness and patience could have prevented, during these years, if not an actual war, such as broke out immediately after Cass's departure from the Territory, in 1831, at least such an expression of hostility and savage ruthlessness on the part of the Indians, that settlements throughout the Northwest would have been perilous if not impossible. One needs to read the treaties as given in the public documents, the speeches he delivered, the accounts given by the companions of his long journeys in a bark canoe from Detroit to the head of Lake Superior, or to Green Bay, or to St. Louis; one needs to examine the admiring statements of the companions of his journeys, Schoolcraft, McKenney, or Trowbridge, who saw him in his work with the Indians, if one would realize in the least the wonderful work of the man, and his wonderful success, in spite of seemingly overwhelming difficulties. There has perhaps never been another man in the country so well acquainted with Indian habits and customs, or another who made better use of his knowledge for the peace and safety of his fellow-citizens. His companions at the Sault Ste. Marie in 1820 never grew tired of telling of his bravery, when he walked, with only his interpreter at his side, into the Indian camp, and in the very presence of the hostile braves tore down the British flag they had dared to raise on American soil. The action is characteristic of the man and his policy. He never showed fear of personal

danger. And the boldness of this deed brought the Indians of the neighborhood into submission to his authority.

The red men, however, not only feared, they respected, him whom the tribes of the Northwest knew as their "Great father at Detroit." If he signed a treaty he strove to carry it out. And, moreover, he strove to enter into a treaty that would give the Indians something of their due. His policy is well set forth in a letter sent to Mr. Calhoun, November 19, 1823, regarding the purchase of some lands on the Muskingum. The land granted to the Indians in 1798 had been encroached upon by whites, and the Indians had consequently taken up residence in Upper Canada.

"I cannot believe," Cass says, "that any explanation is necessary in justification of the pecuniary compensation stipulated to be paid to these people. I should badly discharge the trust reposed in me, and fail altogether in carrying into effect the views of the government, had I endeavored to procure the land at the lowest possible price which their necessities might have induced them to accept. Although they have abandoned it never to return, yet their claim upon it is not weakened by this circumstance. Useless as the grant has become to them, and restrained as they are by our laws from conveying to any but the United States, still the intrinsic value of the property remains the same, and the reunion of the legal and the equitable title will enable the government advantageously to dispose of it." Over and over again such statements of a wise policy accompany his reports of negotiations. An examination of the treaties he made will show that he acquired from the Indians title to a very great portion of the Northwest. But the fact that he entered into nineteen treaties of the utmost importance to the country at large and to the settlers of the Northwest, is not worthy of so much praise as the fact that he conducted these conferences with fairness and treated the Indians with justice. The fact that merits the greatest attention is the equity of his arrangements and the consequent permanencè of any agreement. And it is apparent also, that, with all his shrewdness in taking advan-

tage of Indian peculiarities, he used at least some influence to help the untutored savage to something of civilization. While he encouraged in every way the building of schools, and assisted as best he might the work of the Indian missionaries, he held out practical attractions to a settled condition by introducing into treaties stipulations for the establishment of blacksmith-shop or flour-mill in the Indian country. Charges have been made that he obtained his treaties by intoxicating the chiefs. Schoolcraft wrote to Niles denying that the Treaty of Chicago was thus secured. The Rev. Isaac McCoy, author of a work on the history of Baptist missions, states that after the business of the treaty was completed at Chicago, 1821, seven barrels of whiskey were delivered to the Indians, and within twenty-four hours ten shocking murders were the result. But all testimony that is evidence points to the conclusion that Cass made every reasonable effort, at all times, to induce the Indians to forego the use of their beloved fire-water. It is not too much to say that, in consideration of the services rendered as Indian Commissioner alone, the influence of Governor Cass on the development of the Northwest has always been underestimated.

I cannot refrain from a reference to his patient regard for duty amid trying circumstances. A view of his life at Detroit is given us in a communication of September 8, 1815, in which he asks for something like adequate compensation. In 1821 a similar request was sent to Washington, where his difficulties seem to have been appreciated. He had charge of the agencies at Green Bay and Chicago, Fort Wayne and Piqua, and was obliged, of course, to keep under his influence and control the Indians that thronged at times into Detroit. It was no slight tax on an ill-supplied purse to entertain at his table the Indian chiefs, who would have been offended at any omission of such civilities, inasmuch as the officers in Canada were always ready to offer such desirable attentions. His pecuniary responsibility in the transference of money was great during these early years, but we find no spirit of complaint in his two requests for a remuneration for his services.

It is possible only to suggest the work of General Cass for the development of the mineral wealth of the Northwest. He was instrumental in opening up the lead districts of Illinois, and early called attention to the mineral resources of Michigan. November 18, 1819, he wrote Calhoun, then Secretary of War, and asked permission to make an expedition to the northern country for various purposes. Among other things he desired to explain to the Indians the position of the United States Government toward them, to gather information regarding the existence of copper, and, perhaps, to purchase land in the copper region, if found advisable. For this expedition he asked that there be assigned a portion of the sum apportioned for Indian expenditures at Detroit; and in 1820 Calhoun gave consent, and appointed Henry R. Schoolcraft as geologist and mineralogist of the expedition. Schoolcraft's book on the sources of the Mississippi furnishes us with a complete account of their journey and their investigations, the result of which was to call attention to the copper deposits of the North. For Schoolcraft was ready to announce that, with respect to the useful metals, particularly iron and copper, that northern country was undeniably the richest and most extensive locality of these metals on the globe. The published reports were eagerly sought for by the people of the east, and we cannot doubt that its effect was to turn hither eastern capital for the development of northwestern resources.

Between 1813 and 1831 there were many changes in the form of government in Michigan Territory, especially in the direction of granting political privileges to the people. County courts were established, and a Court of Quarter Sessions. In 1818 the people decided that they would not have a territorial legislature. But in 1823 a legislative council was ordered organized by Congress, composed of nine men chosen by the government from an elected eighteen; and in 1827 the people were granted the privilege of electing the members of the council. H. R. Schoolcraft, who was a member of the council for some time,

speaks of the influence of Cass's statesmanship, and of the influence of his personal character. To him is attributed the smoothness with which business was conducted, and the lack of personal or political bitterness. During these years Cass shaped the legislative work of Michigan's council. His elaborate messages at the beginning of each session called attention to the needs of the Territory, and seemed to anticipate by suggestion, but without dictation, all needed legislative action. Only a careful examination of the territorial laws in the light of these messages will give an adequate idea of the formative power exercised by the governor at the meetings of these councils. In November, 1826, he sent a message largely taken up with a discussion of Michigan's title to the land claimed by Ohio, the same question that had been so ably presented by the governor and judges some eight years before. In all these later years of his governorship he exhibits maturity in statesmanship, an accurate knowledge of the condition of the Territory, and an appreciation of the needs of the people; and his voice is always on the side of popular rights and popular privileges, local self-government, and personal political responsibility. His voice in these messages sometimes seems prophetic. Over-legislation by State legislatures he proclaims an evil hard to resist, and frequent changes the bane of law-making.

It is difficult, with the help of any authentic information we possess, to detect political or economic flaws in Cass's administration as Governor of Michigan, and I have already suggested that his work as Superintendent of Indian Affairs is, in my opinion, worthy of almost unlimited commendation. It has been said, in a recent work, that his whole public life will bear the closest scrutiny. That is undoubtedly true of especially the eighteen years of his governorship, and the closer the scrutiny the greater will appear his influence on the development of the Northwest.



THE PLACE OF THE NORTHWEST IN GENERAL  
HISTORY





## THE PLACE OF THE NORTHWEST IN GENERAL HISTORY.

BY PROFESSOR WILLIAM F. ALLEN.

The hundredth anniversary of the first settlement of English-speaking people within the borders of the Northwest, celebrated at Marietta last spring, has called the attention of our people to the importance of this event in the history of our country. It is not the least significant among the centennial celebrations in which these last years have abounded. But perhaps few have observed that we have this year not merely a centennial anniversary, but a bi-centennial, yes, even a three-hundredth anniversary. In 1688 was the English Revolution; in 1588 the destruction of the Spanish Armada—two events which it would be difficult to match in these centuries for significance in the history of free institutions, and even, we may assert, in their bearing upon the history of the Northwest.

Three hundred years ago Spain was the first power in the world, a nation arrogant, tyrannical, bigoted, grasping beyond even the customary standard of great powers; possessing an extent of territory and an amount of resources, surpassing, I should say, even those of Napoleon when at the height of his power. The territories governed by Philip II. comprised the whole Spanish peninsula, from which he derived the best equipped, disciplined, and commanded army in the world; about a half of the Italian peninsula, then the seat of the highest civilization of the age; the whole of the Netherlands, the most populous, wealthy, and industrious community north of the Alps; considerable portions of what is now France; and the New World, from which he

received yearly immense treasures of gold and silver. This New World, discovered by Spanish enterprise, and granted almost exclusively to Spain by papal decree, had not yet to any appreciable extent been withdrawn from Spanish control. France and England, it is true, refused to recognize the exclusive claim of Spain: their explorers are among the most illustrious of the sixteenth century, and both nations had made attempts at colonization. But these attempts were feeble and short-lived. In 1588 Spain was the only European power that held a foot of ground in North America, and her absolute title was asserted as haughtily as ever. Florida was occupied by a flourishing colony; so was New Mexico; and the country lying between, explored by De Soto and Coronado, had been, it might fairly be said, vindicated beyond a doubt for the Spanish crown. Our Northwest was still unknown, and in the undisputed possession of the savages; but whoever had attempted to forecast the future in that year would have said that Spain was destined almost certainly to extend her empire over the whole of North America.

This mighty Spanish empire was not overthrown all at once, nor by any single person or event; its dissolution was the work of a number of causes, inducing weakness in the governing power, and gradually severing from its rule the greater part of the outlying countries. So far as we can ascribe the result to individual causes, we may say that William of Orange was the person who gave the first serious blow to Spanish domination; but that the event which more than any other brought to light the inherent weakness of Spain, and hastened its decay, was the defeat of the Armada in 1588. It was the fortunate privilege of England to present herself as the champion of free institutions, and the foremost antagonist of Spain in the events which followed.

Ten years after the defeat of the Armada, in 1598, Philip II. died; and less than ten years after this we find both French and English colonies of a permanent character established upon the coast of North America. The At-

lantic seaboard, north of Florida, was irretrievably lost to Spain. Florida and New Mexico were still held firmly in her grasp, but the vast territory between, which we now call the Mississippi valley, remained unknown and unoccupied. The dim and shadowy memories of De Soto's exploration gave no valid title to this territory, because there had been no attempt at permanent occupation. This priceless domain lay ready for the first-comer; and that first-comer was not likely to be Spain, for Spain had lost all enterprise and initiative.

Let us now pass down to the next hundredth anniversary, and inquire what we find in 1688. France had now succeeded to Spain as the leading power of the world. Louis XIV. had taken the place of Philip II. as an aspirant to dominion over the world. The domination of France under Louis XIV. would have been preferable to the domination of Spain under Philip II.; for it represented on the whole the highest civilization of the age; and insolent, unscrupulous and unfeeling as Louis was, his rule did not crush and benumb as did that of Spain under the Philips. But the supremacy of France, like that of Spain, even if not in the same degree, meant the overthrow of national independence and the extinction of free institutions wherever it went; and the best interests of mankind now called for resistance to France, as a century earlier for resistance to Spain. Now as then the man who headed this resistance was William of Orange—great-grandson of the other,—and the nation was England. The Revolution of 1688, which secured to England her free institutions, at the same time brought her into line with the nations of the continent which were arrayed against the ambitious schemes of Louis XIV., and made her the champion of Europe against French aggrandizement.

Nowhere had France gained greater and more significant successes than in North America. This was in a sense the heroic age of the French people; at all events it was the heroic age of the French church, and it was now that the French people threw themselves most heartily into the work

of exploration, discovery, and colonization, as well as of the propagation of their faith. France, as if by right, stepped in and took possession of the vacant tract between Florida and New Mexico, to which Spain had once had a certain claim, but which Spain no longer possessed the enterprise to occupy. The discovery by Nicolet, the exploration by Radisson, Joliet, Marquette, and Hennepin, the occupation by La Salle and Iberville, followed one another with rapidity, and in 1688 France was in undisputed possession of the valley of the Mississippi as well as of that of the St. Lawrence and the Great Lakes. Spain was crowded back to her old possessions on the Gulf of Mexico; England was confined to a narrow strip between the Alleghanies and the ocean, which the enormous empire of New France surrounded upon the north and west. The prophet who had undertaken in 1688 to forecast the future would assuredly have said that North America was destined to be the possession of France.

The Revolution of 1688, placing England at the head of the coalition against France, speedily brought the two nations into collision in the western continent. Frontenac's invasion of New York, Sir William Phips' invasion of Canada, the cruel Indian raids and massacres, the succession of intercolonial wars—these events are familiar to every schoolboy, and have been related with graphic detail by one of our most eminent historians, Francis Parkman. It was soon made plain that France had passed the culminating point of her greatness, and that the star of England was in the ascendant. The first great series of wars, known in our colonial history as King William's and Queen Anne's Wars, ended with the treaty of Utrecht in 1713, by which the entire Atlantic coast was transferred from France to Great Britain. The next great series of wars, known as King George's Wars—the old French War, and the French and Indian War,—ended in 1763, with the Treaty of Paris, which gave to England all that remained of the French possessions east of the Mississippi. As at the same time her possessions west of the Mississippi were conveyed to Spain,

France was by these events utterly stripped of her American territories. It was a collapse of national greatness and aspirations, such as the world has seldom witnessed.

Thus England succeeded to France as the foremost power of the world; and our Northwest, having in the sixteenth century seemed destined to belong to Spain, and having in the seventeenth century been an integral part of the dominions of France, now in the eighteenth century found itself in the possession of Great Britain. The events that followed are well known,—how this territory was vindicated for the new republic by the arms of George Rogers Clark, and the diplomacy of Jay and his colleagues; how the sagacious legislation of the Confederate Congress organized it in the spirit of free institutions, and how then the anniversary year 1788 sealed this series of events by a formal and well-ordered act of organization.

The eighteenth century is not an heroic age. Neither its personages nor its actions are of a character to excite enthusiasm or moral interest. Its wars, illuminated by the exploits of two of the greatest military geniuses of history—Marlborough and Frederick—are not inspired by a single great or fruitful principle; in humiliating contrast with the wars of religion in the sixteenth and seventeenth centuries, or the wars of independence and the revolutionary struggles of the nineteenth. Its diplomacy aimed at nothing but to deceive and swindle. To us of the present day its thought seems commonplace, its poetry flat and prosaic, its society sensual and corrupt. Even that great awakening of mind which we associate with Voltaire, Diderot, and Rousseau, repels us by its crudeness and sentimentality. But selfish and sordid as the century was, in its aims and its achievements, there is one fact that stands out in the history of the balance of power, as an event of more than ordinary importance, the transfer of the leadership in the society of nations to the peoples of the North. The significant fact in the dynastic history of the eighteenth century is the coming to the front of England and Prussia. The greatness of Prussia was reserved for the present century

and generation. In the eighteenth century its growth was rapid, but its place remained second to that of Great Britain. England and the English race now took the lead; and the leadership thus assumed is marked by two events of prime importance and significance—the building up of a British Empire, and the American Revolution.

The British Empire, upon which, together with her maritime superiority, the power of Great Britain, and her ascendancy in the European family of nations, have rested, may be said to have been the creation of the Seven Years' War, and to have come into being with the acquisition of the French colonies in America at the end of that war in 1763. Not that Great Britain was destitute of foreign possessions before this, or that these were her only acquisitions at this epoch. She had already numerous colonies and military posts in various parts of the world; and her Indian empire was founded almost in the same year with the conquest of New France. But these American possessions so far outstripped all her other possessions in extent, in resources, and in compactness, that it may fairly be asserted that it was especially these that made it a British Empire, and that made Great Britain the first power in the world. North America was now partitioned between England and Spain—between the nation which stood first in power and enterprise, and one which had steadily declined in both respects for two hundred years. Mistress of half a continent, with a sluggish and decaying neighbor in occupation of the other half, England enjoyed a prestige and inspired a degree of respect which all the rest of her colonial possessions could never have given her.

We shall see, when we come to speak of the American Revolution, how impossible it is to understand the causes of that event, without an adequate appreciation of the fact just mentioned—that the British Empire derived its greatness directly from its American colonies. At present we will turn to the distinctive character of the British Empire itself, in its relation to the European family of nations.

The great fact, therefore, in the dynastic history of the

eighteenth century is the shifting of the balance of power, by which England succeeded to France in what we may call the *hegemony* or leadership in the European system. This change was not a mere incident, a mere substitution of one unscrupulous and grasping power for another. It marked a radical reconstruction of that European system; a revolution in the temper and character of the domination aspired to. I do not intend to claim for England any higher motives or any less questionable practices than were those of the Continental nations that she superseded; although as co-heirs in the great inheritance of English liberty, we might well be pardoned if we believed that our mother country displayed a cleaner life in her public men, and greater honesty in international relations than her rivals on the Continent. But we must be prepared, in the public affairs of every nation, to find a standard of morality lower than that of private life; and in this respect neither England nor America can claim to be without sin. But this is not the point. The thing to be noted is that the transfer of leadership from the southern nations of Europe to the northern, meant the prominence of a totally different type of national life, and the introduction of a new principle of government. It has been the mission of the Germanic race, which now took possession of society, to preserve and develop the habits and capacity of self-government, and give them a controlling place in European society.

It is not my practice to insist overmuch upon inherent differences in race—a theory upon which a great deal of nonsense has been talked and written. But that different races have independent and well defined traditions and environment, and a disparity of capacities and powers as the outgrowth of these, no person can question. In accordance with this we readily recognize that from some cause lying too far back for us to comprehend, the Germanic race has been distinguished at all ages for its political capacity, and the possession of vigorous institutions of self-government; that there grew up among the nations of this race a well-ordered system of government based upon the rights



of the individual ; and that all the Germanic nations of the North have preserved these institutions in a more or less complete degree of vigor and efficiency.

The nations of this race were never brought under the authority of the Roman Empire, and made to exchange their native system of government for that of Rome ; the victory of Arminius in the Teutoburgensian Forest preserved our ancestors from this fate. I would not be understood to deprecate the great services to humanity rendered by the Roman Empire. It was without question a great good fortune for Gaul to be conquered by Cæsar, because the tribal institutions, by which the nations of Gaul were still governed, appear to have received all the development of which they were capable, and to have consisted at this time in the unrestricted rule of an imperious aristocracy, indifferent to the welfare of its subjects and incapable of progress. Vercingetorix was perhaps a nobler and more heroic man than Arminius ; and at any rate the uprising led by him inspires the heartiest human interest and sympathy. But when it failed we cannot feel that humanity or even Gaul was worse off for it ; his success would have been a disaster. So with most of the other nations conquered by Rome. They had passed their prime, and were stagnating in an effete civilization, or trembling under cruel despotism. But with the Germans it was different. It would have been a great calamity if they, with their uncorrupted social life, and their vigorous, though undeveloped, political institutions, had been forced to become subjects to the Roman system. Those German nations which pushed across the bounds, and established themselves upon the soil of the empire, were obliged to submit to this fate. The Goths and Franks lost all memory of their original liberties, and entered into the traditions of the Roman Empire. But free Germany and Scandinavia retained their institutions essentially unimpaired, and with the triumph of England, in the eighteenth century, the Germanic principles of self-government triumphed for all Europe.

For five hundred years the leadership in Europe had been held by nations which dwelt within the bounds of the Roman Empire, and had inherited its principles of unlimited authority and despotic rule. Italy had first exercised this influence, not so much by superiority of material or political force, as by her intellectual maturity, the splendor of her civilization, and the spiritual authority possessed by her ecclesiastical head. With the Renaissance of the fifteenth century the nations beyond the Alps entered into the intellectual life of Italy, which country now lost its intellectual leadership, while the spiritual power of the Pope, with a certain authority growing out of it, as arbiter in international controversies, was destroyed by the religious revolution of the century following. Spain and France, which enjoyed undisputed precedence among nations during the sixteenth and seventeenth centuries, inherited in the fullest degree the traditions and practices of the Roman domination. It was only slowly and feebly that the free institutions of the North asserted themselves successively in England, Holland, Sweden, and Prussia, and wrested a tardy recognition from the autocratic states of the South.

It is not an accident that the moment of the advance of England to the leading place among nations was also a turning-point in the *constitutional* and the *international* relations of these nations. For a hundred years, since the close of the period of religious wars by the treaty of Westphalia in 1648, and of the English civil war the next year, by the execution of Charles I.; during these hundred years the sovereigns of Europe had been engaged in unintermitted efforts to enlarge their territories and increase their power. In all this period it is hard to discern any issue in the wars or the diplomatic relations, except pure greed, or the desire to place a check to this greed, and preserve the balance of power. And in internal affairs the only principle of government was the absolute authority of the sovereign. This principle held sway everywhere except in England, and even in England the more liberal principle

of government was to a great extent neutralized by despotic practice. No country in Europe at this epoch was governed more arbitrarily, with a more complete disregard of popular rights, than Catholic Ireland under the rule of the Whig, or Constitutional party of Protestant England.

After the Seven Years' War, and the Peace of Paris (1763), we meet no more wars of an exclusively dynastic character. Always the rights of the people or of the nationality form an element, and more and more the controlling element, in public relations. Even the Partition of Poland, the grossest and most wanton abuse of absolute power, is a significant event, as for the first time bringing the principle of nationality actively and conspicuously into notice. Then followed the American Revolution, and the revolutionary period was fairly opened, which has lasted to the present day. In the tremendous struggles of the intervening century there have been many moments of reaction and depression, in which popular liberties have seemed hopelessly lost; but the result of it all is that nearly every country of Europe has, first or last, had its constitution remodelled on the plan of that of England, and constitutional liberty of the English type has everywhere, except in Russia and Turkey, superseded the absolute system of government which prevailed universally upon the Continent a century ago. I do not assert that these parliamentary institutions have always been well planned and successful in their workings. I do not overlook a certain reaction against them at the present time, not only in the nations of the Continent, but in England itself. The fact itself of their dissemination is none the less noteworthy and significant.

Along with parliamentary institutions and local self-government, equally with these an outgrowth of the democratic temper, the English race stands for the dignity of labor. No more fundamental contrast exists between ancient and modern society than in the absolute denial in the one, and the hearty recognition in the other, of the claims of industry in the organization of society. Industry in the ancient world was left to slaves and dependants; a freeman was

disgraced by labor. Now, in those countries of the Continent which have derived their institutions and civilization by an unbroken succession from the Roman Empire, industry has continued to be held in the same contempt; and as even the countries of the North have been exposed to this influence in some degree, this aristocratic principle of contempt for labor has had control of society through all modern times. But least of all in England and the countries of Scandinavia. In these the democratic spirit was never extinct; and when England assumed the leadership among European nations, she ushered in the dawn of an industrial epoch, when the arts and avocations of peace shall take precedence of those of war. Even in the present age of enormous and costly armaments, it is noticeable how every one of these military nations is reorganizing its social system on an industrial basis. Railroads, manufactures, the technical arts, scientific agriculture, control society in France and Italy as truly as in England and America.

It cannot be said of this industrial revolution, as it can be said of the introduction of parliamentary institutions, that it is directly and entirely the work of England. It is the modern spirit, the spirit of the age, closely connected with that Christian civilization which forms the chief difference between modern society and ancient. But the English, having come less directly under the influence of Roman traditions than any other of the leading nations of Europe, and having, therefore, preserved more completely their primitive free institutions and the democratic spirit of which these were the outgrowth, are the foremost representatives and the pioneers of this movement. When Napoleon called the English "a race of shopkeepers," he spoke in a spirit of pagan antiquity, in high contempt of any but military interests. The industrial age has its faults and dangers. The shop-keeping spirit is prone to become mean-spirited, sordid, gross. But the nation of shop-keepers manifested a military energy and efficiency which humbled the great Napoleon himself, and it is a significant fact that Prussia did not lend her hand to the work until her social institutions had

been reorganized in the modern spirit by the reforms of Stein.

Another point may be noted in passing. It is not in the nations thoroughly imbued with the modern industrial spirit, but in those which are ruled by the traditions of the Roman Empire, that that social weakness exists, and those social agitations have originated, which threaten to subvert our social organization. Germany, the home of Socialism, forms no exception to this assertion. It is, it is true, a Teutonic country, and possessed originally the same free institutions as England; but it was brought at a very early date by the conquest of Charles the Great, into close connection with the Romance nations; was thoroughly feudalized, and, while never losing entirely its primitive local liberties, was reduced under the rule of absolutism as completely as its southern neighbors. But it is not too much to claim that in the nations of English race, along with inequalities of condition and inadequacy of law, such as are incident to human nature, there is nevertheless a fundamentally democratic spirit in social relations, which affords no hold to anti-social theories. Labor contests there may no doubt be; but schemes to destroy society itself could never have originated in an Anglo-Saxon community.

The leadership among European nations, secured to England by the Seven Years' War, meant for Europe free institutions and the advent of an industrial age: for America its significance was truly incalculable. Until now the English colonies had ranked third in extent and importance; now they divided the continent with those of Spain. However magnificent the claims of the English colonies, their actual occupation had been only a narrow strip along the coast; and, what is more, they were incapable of expansion, so long as Spain held Florida, and France the Mississippi valley. Now their territories seemed sufficient for an unlimited growth of population. The first great step had been taken toward the realization of the manifest destiny of the Anglo-Saxon race to control the continent of North America. The acquisition of Louisiana, the treaty of Guada-

loupé Hidalgo, the Gadsden purchase—all followed almost by an uncontrollable necessity ; and if some of these steps were marked with insolence and bad faith on our part, the injustice cannot now be undone ; and to the lands themselves it is an almost unmixed benefit that they have been brought under the sway of the English race.

The establishment of the British empire in America brought with it English civilization, English law, English political ideas. The practices of local self-government, parliamentary institutions, the supremacy of law over the will of the sovereign, the place of precedence assumed by industrial interests—all these, which we have found to be the distinctive characteristics of the Germanic political ideals as opposed to those of the Romance nations, were by this event made dominant in the continent of North America.

The method of colonization of the two rival nations, as has often been pointed out, assisted in this. The French occupation, thinly spread over an immense area, consisting of scattered forts, missionary posts, and the isolated cabins of roving fur-traders, testified to the sovereignty of the French crown, but had hardly any points of contact with the French people. It was therefore superficial and transitory. Before the Seven Years' War France ruled supreme over the greater part of the Continent. A hundred years later it had utterly vanished, leaving no traces but a few names. It had no roots. We have our Fond du Lac and Eau Claire and Prairie du Chien, our *cooleys*, *dalles*, and *portages* ; and from these names we know that this land was once a French land. But these towns bear no trace of French origin except their names. English civilization has completely superseded French. For the English colonization was carried on by a slow and thorough process of occupation. Its settlement was compact, orderly, industrious. At every step it was organized in bodies politic, all connected with one another by ties of common origin and common interest. This has been the method of English and American colonization from that day to this—more rapid as new means of transportation and intercourse were

available, more superficial when new lands were opened in a quantity disproportioned to the number of settlers ; assimilating foreign elements of population, and bringing them into active relation to its political system ; but everywhere busying itself with the foundation and organization of political communities. In this work we meet with many failures, much inefficiency, much positively bad government ; but in this, we heartily believe, is to be found the only sure foundation of the future nation, the only guaranty of future liberty.

Thus the statesmanship of Pitt and the victories of Wolfe secured to our Northwest the inestimable treasures of English liberties, English institutions, English civilization. The next stage in our history was the further development of these institutions and the more complete realization of these principles of liberty through the American Revolution.

The characteristic political events of the nineteenth century are the extension of the English parliamentary system to the nations of the Continent, and the spread of the revolutionary spirit—two events which are to a certain extent independent of one another, although both of them are expressions of the Germanic principles of government. In their origin, they are connected with the two great events which, as I have said, marked the predominance of the English race. As the building up of the English empire gave to England a position among nations so conspicuous and controlling that her parliamentary institutions became the model of theirs, so the American Revolution inaugurated the revolutionary epoch in the world's history, setting an example to the European nations which they were rarely capable of following to good purpose, but which at any rate led the way to the triumph of free principles in the end.

The British empire was not established without enormous expenditure, both of men and of money. Weakened as France was in national character, in public spirit, and even in material resources, under a king, Louis XV., whose name is a synonym for sloth and dissoluteness, she never-

theless did not surrender her rank among nations without a tremendous struggle. From this struggle England emerged with increased power and prestige, and far from exhausted in resources, but with a consciousness that these resources had been strained to their uttermost, and in such pecuniary embarrassment as she had never experienced before. It is not my intention to narrate events which are familiar to all, or to enter into the analysis of the causes of the Revolution, which, even if they were not already so well understood, do not belong to my subject. But I wish to bring into prominence the fact, which is not so generally noticed, of the close connection between the American Revolution and the establishment of the British Empire. Upon the acquisition of New France by the treaty of Paris in 1763 rested, more than upon any thing else, the greatness of this empire; but it was this very acquisition that led by an inevitable sequence of cause and effect, to the uprising of the colonies and the severance from the empire of its most important dependencies. The time and circumstances of this uprising are most significant, Says Parkman: "The measures on the part of the mother country which roused their resentment, far from being oppressive, were less burdensome than the navigation laws to which they had long submitted; and they resisted taxation by Parliament, simply because it was a principle opposed to their rights as freemen. They did not, like the American provinces of Spain at a later day, sunder themselves from a parent fallen into decrepitude, but with astonishing audacity they affronted the wrath of England in the hour of her triumph, forgot their jealousies and quarrels, joined hands in the common cause, fought, endured, and won."

The American Revolution was the second great act in the newly asserted preponderance of the Anglo-Saxon race. With it commenced the revolutionary era, which has been the most characteristic fact of the last hundred years. I am careful not to say that these revolutionary movements were caused by the American Revolution. They had causes

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<sup>1</sup> "Montcalm and Wolfe," II., 413.



enough on the spot, in the oppression and misgovernment inherited from former centuries: the revolutionary era would have commenced in France if it had not commenced in America. Nay, the misfortune was that the European revolutionists did not take example by us. A high enthusiasm, the inspiration which comes from witnessing our success and prosperity,—this is pretty much all that the French Revolution derived immediately from ours. But its type was wholly opposed to ours. The American Revolution was a conservative act, directly in the line of English constitutional history. Our fathers claimed that the mother country had forgotten its own principles, and they arose to maintain inherited and traditional rights, to vindicate the historical liberties of Englishmen. In France, on the other hand, there were no such historical liberties to vindicate, or if there ever had been any, they had been ruthlessly trampled down, and long forgotten. The French people were inspired, in their revolt, by an indefinite craving for something better—they knew not what; the abuses which they wished to be rid of were plain enough, but how to secure themselves against future misgovernment they did not know. The blind groping in the dark, the crude theories, the futile efforts to imitate models which they did not understand, and to adopt reforms for which they were not prepared, lend a pathetic interest to the first years of the French Revolution.

In the republican institutions of the United States the English constitution has received a new development, and a somewhat new form. They are a legitimate and healthy outgrowth of the original Germanic institutions. But to England herself the event has been no less salutary in the complete remodelling of her colonial system, which was a result of the American revolt. The colonial system, the principle that the colonies were dependent provinces, existing only for the advantage of the mother country, to add to her glory and help her citizens to amass wealth: this system was the cause of the American Revolution. Against it the colonists claimed that they were not subjects and

dependents, but citizens, endowed with all the rights of Englishmen. Here was the issue, which was decided by the arbitrament of war. As a mere question of law, possibly it is not so clear and self-evident as our ancestors thought. Some English writers maintain to the present day that our claim was unfounded, and the alleged grievances gave no ground for resistance. But it is not a mere question of law, but of public polity; and the significant fact is that the American theory has, in the result, prevailed, and has become an accepted part of the English constitution. The old colonial system was killed by the American Revolution. The greatness of the British Empire was too firmly founded, and had too active germs of youth, to be crippled or more than temporarily checked even by the loss of its most important colonies. It has gone on enlarging and prospering until, at the present day, it is, for extent and resources, even if not in immediately available military strength, the most powerful in the world's history; and in all its widespread territories, wherever circumstances permit, the genuine English principle of self-government, the principle that the inhabitants are citizens and not dependents, now prevails. The colonial system, which kept our ancestors in a condition of subjection, and led to the war for independence, is dead.

In treating of the relation of the Northwest to general history, it has been necessary to take a rather wider survey than the subject would itself seem to require, and sometimes to speak of the Northwest almost as if its future were those of the country of which it forms only a small part. But it has happened more than once that, in the Northwest, small as it is, we have found the key to problems of a national character. And, in summing up, I wish to emphasize four points, which have formed the principal subject of my paper, and which, I think, will warrant the prominence given to this aspect of our history.

First, the title to the Northwest belonged in succession to the three great nations, Spain, France, and England, which, in the sixteenth, seventeenth, and eighteenth cen-

turies respectively, possessed the acknowledged leadership among the European states.

Second, the leadership acquired by England in the eighteenth century was integrally associated with the building up of the British empire; and the decisive fact in the formation of this empire was the acquisition from France of that enormous tract of territory, of which the Northwest is the centre—the keystone, as we may call it, of the arch.

Third, the imperial destiny of the United States hung upon the possession of this Northwest. But for the military successes of Clark, and the diplomatic skill of our commissioners who negotiated the treaty of peace, in securing just this territory, our domain would have been contracted, our national aspirations would have had no scope, and it is not likely that there would have been the courage to make the purchase of Louisiana and the subsequent acquisitions.

Fourth, the development of our national policy was closely connected with, and, in fact, first took shape in, the ordinance which organized this territory. Our territorial system, our policy of creating new States, our national guaranty of personal freedom, universal education, and religious liberty, found their first expression in the great act which provided for the government of the Northwest.

INTERNAL IMPROVEMENTS IN OHIO, 1825-1850



## INTERNAL IMPROVEMENTS IN OHIO, 1825-1850.

BY CHARLES N. MORRIS.

The eighth article of the constitution of Ohio of 1851 forbids the contraction of a State debt, except to supply casual deficiencies in the revenue within specified bounds, to repel invasion and suppress insurrection, and to redeem the outstanding indebtedness of the State.<sup>1</sup> The same instrument also prohibits the State from ever loaning her credit to private companies, or becoming a stockholder in them.<sup>2</sup>

The debt, amounting at that time to over eighteen millions of dollars,<sup>3</sup> was one of the results of twenty-five years' experience with a system of internal improvements built, owned, and operated by the State. When, therefore, the people of Ohio ratified the constitution, they set the seal of their condemnation upon this system. It does not follow, however, that the public works had rendered no service to the people, or that the contraction of the debt was entirely without excuse. It is quite conceivable that the construction of transportation lines by the State may have added to the wealth within her borders more than would ever be taken away in the form

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<sup>1</sup> Sections 1, 2, and 3. See Poore's "Charters and Constitutions," Part II., p. 1473.

<sup>2</sup> Section 4.

<sup>3</sup> On January 1, 1850, \$18,916,309.80. Auditor's Report of May 29, 1850, given in 5 *Banker's Magazine*, 203. The framing of the constitution was completed March 10, 1851, and ratified that year by a vote of 126,663 to 109,699. See Poore's "Charters and Constitutions," Part II., p. 1465.

of taxes to pay the State's obligations. This is a difficult problem to solve, and perhaps does not admit of an exact solution at all. Certain it is that the tax-payers felt the pressure of the taxes levied yearly to discharge the interest on the debt.

But the ground for condemnation of the improvement system, if found at all, must be found in the workings of the system as seen in its history; the financiering of the State stocks and interest; the manner in which the works were built and managed, and their influence in the community.

The public works of Ohio were far more successful than those of many other improvement States. In Indiana and Illinois, for instance, the spectacle is presented of undertakings on a scale vastly in excess of the State's ability to provide the means by borrowing; a feverish eagerness in contracting additional loans, regardless of ruinous discounts in selling stock; default on the instalments of interest, ending with bankruptcy of the State and collapse of the public works. Some of these features, to be sure, are seen in the history of the Ohio improvements, but Ohio shines in comparison with the other western States, and, indeed, in comparison with Pennsylvania and Maryland.

In common with all young States, the great need of Ohio at the end of the first quarter of this century was in general, capital, and in particular, good communications with the rest of the country. The State was then almost entirely stock-raising and agricultural, and was rapidly growing. But of what avail was a large crop to the farmer of the interior if he could not get it to market cheaply? The national road from Wheeling into the heart of Ohio was not yet begun.<sup>1</sup> Produce of the interior came but slowly to the river and lake towns for shipment to the eastern market by way of Pittsburgh and Buffalo. Clinton's journey, in October, 1825, over the completed Erie Canal, from Buffalo to Albany

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<sup>1</sup> Ground was broken at St. Clairsville, Ohio, July 4, 1825.

and thence to New York city, undoubtedly acted as powerful stimulus to those States already engaged in slack-water enterprises, and incited new States, like Ohio, to begin them. Pennsylvania and Maryland especially put forth great exertions to secure for Philadelphia and Baltimore, now threatened by New York, their share of the western commerce.

The project of building a canal from the Ohio River to Lake Erie was brought up in the Ohio legislature in 1817; but for several years nothing resulted but brief surveys and long reports. By the summer of 1824 the Ohio and Miami Canals were located,—the Ohio, from Portsmouth to Cleveland; the Miami, from Cincinnati to Dayton. It was estimated that they would cost upwards of five million dollars.<sup>1</sup> It had now become clear that the topography of the country admitted of the construction of canals at a moderate cost. Legislation hitherto had been merely tentative and preliminary. The act of February 4, 1825, ought really to be regarded as the beginning of internal improvements in Ohio. The provisions of this act were practically mapped out, however, a month before in the report of the Canal Commissioners, the most prominent member of whom was at the same time Speaker of the House. In this report,<sup>2</sup> the advisability of getting the canals built privately and chartering companies for this purpose, had been considered. Chartered companies were blackened by the statement that they were popular only in monarchical countries, and the horrors of chartering monopolies were held up to view.<sup>3</sup> It was not necessary for the commissioners to ring the changes on the monopoly nightmare to bring over an unwilling legislature. They were already prepared to commit the State to the policy of State ownership. The act passed

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<sup>1</sup> Estimate Miami Canal \$2,505,494. Ohio Canal, according to route chosen north of Coshocton, \$2,626,571 to \$2,934,024. (See sketch by S. P. Chase, "Hist. of Ohio," in Chase's "Statutes of Ohio," Vol. I.)

<sup>2</sup> Report Canal Com., Jan. 8, 1825.

<sup>3</sup> See "Ohio Canal Doc.," p. 138.



in the Senate by a vote<sup>1</sup> of 34 to 2, and in the House, 58 to 13.

The measure was entitled, "An act to provide for the internal improvement of the State of Ohio by navigable canals." The main provisions of the act were as follows:

1st. A board of Canal Commissioners, seven in number, appointed on joint resolution of the Assembly, and holding office during good behavior, were to have entire supervision of the construction of the canals and management of all public works when finished. To this board fell the leasing of contracts, and the appointment of surveyors, draftsmen, engineers, collectors of tolls, and all other functionaries needful to the building and running of the works.

2d. A Canal Fund was formed, to consist of "such appropriations, grants, and donations as may be made . . . by the Legislature of this State, and by any individuals, and also all moneys which may be raised by the sale of stock, . . . and the taxes by this act specifically pledged for the payment of interest upon such stocks."<sup>2</sup>

3d. To sell stocks and manage this fund, three men were appointed, called "Commissioners of the Canal Fund." Like the Canal Commissioners, they were appointed on joint resolution of the Assembly, but so held office that one went out at the end of two years, one at the end of four and one at the end of six years. All appointments after the first were to be for six years; so that a new member might come into the board every two years.

4th. Interest on all loans was limited to six per cent.

5th. The Commissioners of the Canal Fund were authorized to borrow, on the credit of the State, for 1825, not more than \$400,000, and in any succeeding year not more than \$600,000.

For all loans thus contracted they were to issue transferable certificates of stock, redeemable at the pleasure of the State between 1850 and 1875. The distinctive feature of the act was the fact that taxes were pledged for the pay-

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<sup>1</sup> See "Ohio Canal Doc," pp. 165, 166.

<sup>2</sup> Sect. 3.

ment of interest due on stock sold, and to form a sinking fund for the redemption of the principal.<sup>1</sup>

It was made the duty of the State auditor to ascertain each year the amount needed to be raised by taxation for canal purposes, and to notify the county auditors of the rate per cent. No tax should ever be levied on canal stock.

On the 4th of July, 1825, ground was broken on the line of the Ohio Canal, at Licking Summit. The occasion was felt to be one of great importance. The Governor and other dignitaries of the State were present. Gov. Clinton of New York came to see the beginning of the "second great national work of internal improvement in the United States."<sup>2</sup> He was accompanied by several gentlemen from

<sup>1</sup> This was done in the following manner :

1825....	\$40,000 then in Treasury <i>plus</i> \$30,000 to be raised by taxation.			
1826....	Raise enough by taxation to meet int. on am't borrowed in 1826.			
1827....	Raise enough by taxation to meet int. on am't borrowed in 1827.			
	1st.	2d.		
	Tolls and profits of public works	+ { Taxation on grand list. }	= { Interest due in this year. }	Sinking fund raised by taxation for redemption of principal.
1828	"	"	"	\$10,000
1829	"	"	"	20,000
1830	"	"	"	30,000
1831	"	"	"	40,000
Each succeeding yr. until 3 yrs. after completion of canals.	"	"	"	40,000
Each yr. succeeding 3d year after completion of canals.	"	"	"	25,000
				in each year. *

\* See Sect. 5.

It was thought that by the time the annual payment to the sinking fund of \$25,000 went into operation, the profits of the canals would be large. It was therefore provided, that when the net profits were more than enough to pay the interest, this installment of \$25,000 to the sinking fund need no longer be raised by taxation.

<sup>2</sup> Report Canal Com., 10th Dec., 1825 (p. 185, "Ohio C. Doc.").

New York, including Messrs. Lord and Rathbone, who had taken the first loan of \$400,000,<sup>1</sup> and therefore felt an interest in the work. On the 21st of July (1825), work was begun on the Miami Canal, "in the presence," so reads the report,<sup>2</sup> "of the distinguished chief magistrates of Ohio and New York, and an immense concourse of deeply interested citizens; since which it has progressed with spirit and effect, and is now in a flattering state of progression."

It was the main object, at first, to establish communication between New York city and the interior of the State. So the commissioners directed most of their energy to building the northern section of the Ohio Canal—from the lake southward. The history of the early construction of these two canals is a tale of woe, which, notwithstanding the uniformly bombastic tone of the reports, is apparent. On the Miami Canal, the cost of quarrying stone, for use in the locks, was found to be much greater than was anticipated. The soil of the country through which the canal passed was gravelly; hence, the banks and bottom of the canal were porous, so that the water leaked out as fast as it was let in from the feeders and reservoirs. The spring floods of "Mill Creek" undermined the piers at the aqueduct over that stream, so that, to quote from the commissioners' report, "the powerful pressure of this mass overcame the wall, which on a careful inspection was found to have been built in a very unfaithful manner."<sup>3</sup> Then it was found that certain ponds at the head of this same enemy, Mill Creek, would, in the spring, "entirely overflow the bounds of the canal." Hence another additional item of expense had to be incurred in draining these ponds.<sup>4</sup>

Equally unfortunate were the commissioners with their laborers. In 1825 work was much retarded by sickness among the laborers on the Ohio Canal.<sup>5</sup> In the summer of 1827, fevers were prevalent in the same locality, and

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<sup>1</sup> Report Canal Com. Fund, 10th Dec., 1825 (p. 175, "Ohio C. Doc.").

<sup>2</sup> Dec. 10, 1825, Rep. C. C. (p. 186, "Ohio C. Doc.").

<sup>3</sup> Report C. C., 1826.

<sup>4</sup> Report C. C., 1826, (p. 245, "O. Canal Doc.").

<sup>5</sup> Report C. C., 10th Dec., 1825; *ibid.*, p. 184; also Report C. C. 1826, "O. C. Doc.," p. 236.

frightened the laborers away. Operations on the Pennsylvania Canal and the national road drew heavily on the labor supply in 1827.<sup>1</sup> In 1826 some of the contractors and sub-contractors absconded<sup>2</sup> with the money advanced to them, leaving their workmen unpaid. This lapse from integrity frightened the laborers as badly as did the fever, and inflicted serious loss on sundry individuals who had furnished the contractors with supplies.

The laborers on the Miami Canal had another grievance in the depreciation of the bank paper in which their wages were paid. Money used in construction of the State works was drawn, as needed, from New York and placed to the Fund Commissioners' credit, in the Western Reserve Bank and Lancaster Bank, of Ohio, subject to the check of the acting Canal Commissioner. Now the commissioner's checks were honored in the notes of these banks. The notes were given to the laborers. In Cincinnati and the region about the Miami Canal, they were at a discount of two and one-half per cent.<sup>3</sup> Somewhat later, the Canal Committee of the Senate<sup>4</sup> said that steps had been taken to relieve contractors and laborers from difficulties consequent upon the receipt of their wages in depreciated paper. Canal deposits were not, however, transferred to banks nearer the scene of operations. The depreciation is of too little importance, said the committee; besides, the bank was "willing to afford every possible facility to the accomplishment of the grand object of internal improvement which could be expected or wished by the State."<sup>5</sup> Measures were taken to have the laborers paid directly by one of the commissioners, and to advance no money to the contractors till their work was finished. It was thought to obviate thus the danger of loss through absconding.<sup>6</sup> Nevertheless, there was still some complaint among the laborers of irregular payments.<sup>7</sup>

<sup>1</sup> Report C. C., 1827. ●

<sup>2</sup> Report C. C., 19th Dec., 1826, "O. C. Doc.," pp. 236 and 248.

<sup>3</sup> Report Canal Committee of Senate, 18th Jan., 1827. ("Ohio C. Doc.," p. 203.) <sup>4</sup> *Ibid.* <sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*, and Report C. C., 1827 (Dec. 27th), "O. Canal Doc.," p. 287.

<sup>7</sup> Report C. C., Dec. 27, 1827, "O. Canal Doc.," p. 287.

The State works seem to have attracted a large part of the energy of the people of Ohio, which might better have been turned to more productive enterprises. In November of 1825, on the northern division of the Ohio Canal, from fifteen hundred to two thousand<sup>1</sup> laborers were employed.

In 1830 the entire population of the State was only 937,679.<sup>2</sup> In 1826 the commissioners offered one hundred and ten sections, on this same division, for contract. There were six thousand bids.<sup>3</sup> It was evident that the public works were regarded as a line of business where contractors could reap a rich harvest of both legitimate and illegitimate profits; the carcass seemed to lie by the canal, and thither gathered the eagles. Though the first commissioners' report states that "most of the contracts have been taken at prices which, with judicious management, will yield a handsome profit to the contractors,"<sup>4</sup> subsequent competition induced many contractors to send in ruinously low figures in order to secure proposals. The only way for such a contractor to reimburse himself was either to decamp with his workmen's wages or to put in shiftless work. As we have seen, they did both. An ambitious contractor, who had obtained his contract by bidding lower than the nature of the work would warrant, found himself crushed between two forces. On the one side, he had left himself so small a margin of profit that only the strictest economy and the most favorable conditions could save him from bankruptcy; while on the other side, the conditions were often unexpectedly unfavorable.

The shrewd inhabitants in the vicinity of the public works, anticipating a demand, would put up the price of stone, timber, and other materials to an extravagant figure. To be sure, there existed the right of the commissioners to appraise and take materials for the State's use. But, as a rule, the commissioners had no time for details of this kind,

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<sup>1</sup> Report C. C., Dec. 10, 1825, "O. Canal Doc.," p. 184.

<sup>2</sup> 47 Niles Register, 202.

<sup>3</sup> Report C. C., Dec. 19, 1826, "O. Canal Doc.," p. 232.

<sup>4</sup> Report C. C., Dec. 10, 1825, "O. Canal Doc.," p. 184.

and the laws regarding damages were at loose ends, and the basis of appraisal was always uncertain.<sup>1</sup>

It is not difficult to see that the State's hierarchy of canal commissioners, fund commissioners, engineers, contractors, and appraisers formed but a poor business corporation.

Having been informed that on the New York canals wastefulness had resulted from the custom of remunerating a contractor in certain cases where the cost of construction was greater than at first supposed, the Ohio officials resolved to hold contractors strictly to the terms of their contracts. "When the rule" (of extra compensation) "generally becomes known and established," said they, "contractors are no longer interested in the economical and vigorous prosecution of their work; difficulties are magnified, and various arts are practiced to induce a belief that the cost of the work is much greater than it really is."<sup>2</sup> This is sound doctrine; but the door was opened later for extortionate demands.<sup>3</sup>

The early legislation authorized the sale of surplus water—the proceeds to go to the canal fund.<sup>4</sup> Furthermore, the commissioners were authorized to appoint agents who were to select and purchase for the State, sites where water power was abundant in the vicinity of the canals.<sup>5</sup> Individuals and towns, whose property would be benefited by the public works, were solicited for donations to the canal fund. In this way, the State came into possession of a number of acres of land and lots in various towns.<sup>6</sup> These lots were sold from time to time, and the proceeds turned into the canal fund.<sup>7</sup> The money derived from these sources was of small amount. Some of these donations were made on

<sup>1</sup> Report of Canal Committee of the House, 18th Jan., 1827, "O. C. Doc.," p. 264. Also Reports of C. C.

<sup>2</sup> C. C. Report, 10 Dec., 1825—"O. C. Doc.," pp. 188, 189.

<sup>3</sup> Act March 4, 1836, prohibited allowances above the contract price originally agreed upon, *except where the nature of the work was such as to require a change in plan*. Similarly, Act March 29, 1837, in addition to other allowances, relief was to be given to contractors where the cost of labor was enhanced by extraordinary floods, or other causes not chargeable to the neglect of the contractors.—§ 2.

<sup>4</sup> Acts Feb. 11, 1828; Feb. 18, 1830.

<sup>5</sup> Acts Feb. 7, 1826; Jan. 12, 1837.

<sup>6</sup> Massillon; Akron; Cleveland; Chillicothe. <sup>7</sup> See Treasurer's Reports.

condition that the canals should be built by some particular route, beneficial to the donor.<sup>1</sup> There was a tendency to favor towns, which had made donations, with branches to the main canal.<sup>2</sup> "Log-rolling" in Ohio was mild, however, compared with that disclosed at a later time, in a message of the Governor of Illinois, where it appears that it was the custom in that State of constructing "improvements in almost every county, and appropriating to those in which no improvements were to be made \$200,000 in lieu thereof."<sup>3</sup> A State officer of Ohio, writing to the *National Intelligencer* in February, 1833, stated that not more than one per cent. of the money used in construction of the public works had been expended out of the State, and that it had added permanently to the State's capital. The writer numbers among the blessings flowing from the public expenditure on the canals, the fact that wages have been increased fifty per cent., and the price of provisions nearly as much.<sup>4</sup>

By the summer of 1827, thirty-seven miles of the Ohio Canal were opened for navigation.<sup>5</sup> The arrival of the first boat at Cleveland from Akron—"having descended through forty-one locks and passed over three aqueducts"—was the occasion of another Fourth of July celebration. Tolls, in small amounts, now began to come in; and wheat, flour, butter, beef, cheese, tobacco, and whiskey found their way more easily to the eastern market. Forty-four miles of the Miami Canal were also finished. It is written: "On the 28th of November, three fine boats crowded with citizens, delighted with the novelty and interest of the occasion, left the basin six miles north of Cincinnati, and proceeded to Middletown, with the most perfect success. The progress of the boats was equal to about three miles an hour."<sup>6</sup>

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<sup>1</sup> See Reports C. C.

<sup>2</sup> For charge of bribery in Legislature, in securing appropriations for private road and canal company, see 51 Niles, 304.

<sup>3</sup> Message of 1839, quoted—57 Niles, 357.

<sup>4</sup> 47 Niles, 202. The writer says further: "Our canals have been economically constructed." <sup>5</sup> Report C. C., 27 Dec., 1827—"O. Canal Doc.," p. 275.

<sup>6</sup> Report C. C., 27 Dec., 1827—"O. C. Doc.," p. 282.

The Miami Canal was finished in 1829. It extended from Cincinnati to Dayton, a distance of sixty-seven miles. The Ohio Canal was finished from Cleveland to Portsmouth in 1833. Its length, including feeders, was 333 miles. The cost of the two works up to 1833 was \$5,144,539. The estimated cost had been \$5,132,065.<sup>1</sup>

The completion of these two canals closes the first chapter in the history of internal improvements in Ohio. A debt of \$4,500,000 had been created.

Before going further with the narrative, let us look at the financiering of the State stocks, and especially the means used to meet the semi-annual installments of interest. We have seen that the Act of 1825 provided for the interest in two ways: first, by appropriating the net profits of the public works; secondly, by taxation on the grand list. But though taxation was to be resorted to in preference to defaulting on the interest, it was by no means intended to raise the rates, except in case of extreme necessity. There was no point at which the popularity of the improvement system might so easily be shattered as at this point of taxation. No other subject of State finance required such delicate handling as the canal tax. Therefore, commissioners and auditors left no stone unturned in their efforts to meet that portion of interest due on State stocks, which the tolls would not pay. As early as 1820 petitions for grants of public land, to aid in constructing transportation routes, had been sent to Congress by the Ohio Legislature.<sup>2</sup> In 1825 the request was renewed.<sup>3</sup> The State already enjoyed the benefit of the so-called "three-per-cent. fund," that is to say, the money paid by the Treasurer of the United States into the State treasury, derived from the sales of public lands within the State. Three per cent. of the proceeds of such sales had been granted

<sup>1</sup> Miami C. finished to Dayton 1829. See *Hunt's Merchants' Magazine*, vol. 21, p. 393. Ohio C. finished to Portsmouth, except one lock at Portsmouth, in 1833. See "Hist. of Ohio" in vol. I., Chase's Statutes.

<sup>2</sup> Resolution in House, Feb. 25, 1820. "O. Canal Doc.," p. 14.

<sup>3</sup> Memorial June 25, 1825. "O. Canal Doc.," p. 102.



by Congress in the act enabling the people of Ohio to convene and form a State constitution, in 1802,<sup>1</sup> preparatory to applying for admission into the Union. The condition attached to the subsidy was that it should yearly be expended in laying out roads<sup>2</sup> within the State under direction of the officers of the State. In return for this donation, the State agreed<sup>3</sup> to exempt from taxation lands sold by the United States for five years from date of sale. Here, then, was a fund which might be diverted from its legitimate use and applied to the payment of interest on the canal debt. The three-per-cent. fund of Indiana was so applied<sup>4</sup>; but though Ohio auditors occasionally looked wistfully at this fund, I can find no evidence that it was ever put to any but its proper use.<sup>5</sup>

The applications to Congress for grants of land were not in vain. The act, approved May 24, 1828,<sup>6</sup> granted 500,000 acres of public land in Ohio to aid in the construction of canals. The same act also granted land for the exclusive benefit of the "Extension of the Miami Canal north of Dayton," in alternate sections, five miles in width on each side of the proposed extension. This grant amounted to 464,106. $\frac{53}{100}$  acres.<sup>7</sup> March 2, 1827, Congress had granted to the State of Indiana land, in alternate sections five miles in width, on each side of a canal connecting the Wabash River with Lake Erie. February 1, 1834, the Legislature

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<sup>1</sup> Seventh Cong., 1st sess., Act approved April 30, 1802.

<sup>2</sup> The original proposition of the enabling act was that five per cent. of the proceeds of public land sales within the State should be "applied to the laying out and working public roads leading from the navigable waters emptying into the Atlantic to the Ohio, to the said State, and through the same, such roads to be laid out under the authority of Congress," etc. The convention at Chillicothe, Nov. 29, 1802, modified this so that two per cent. should be expended under Congress, three per cent. by the State. Congress agreed to the change.

<sup>3</sup> In convention at Chillicothe Nov. 29, 1802. See Chase, Stat. vol. I.

<sup>4</sup> See 47 Niles, 371.

<sup>5</sup> See Treasurer's Reports for use made of it. It was distributed to county auditors.

<sup>6</sup> For text see "Ohio Canal Doc.," p. 319.

<sup>7</sup> Vol. xxi, *Hunt's Merchant's Mag.*, p. 393.

of Indiana relinquished to Ohio her claim to any lands which, under this act of Congress, might fall within the State of Ohio on condition that Ohio would complete that portion of the proposed canal which would lie within her territory. Ohio accepted the condition,<sup>1</sup> and came into possession of  $282,778\frac{60}{100}$  acres of land. These three donations of public land amounted to  $1,246,885\frac{13}{100}$  acres.<sup>2</sup>

As soon as these lands had been granted and located the Ohio legislature took action in regard to them. They were to be sold at a minimum price of \$1.25 per acre,<sup>3</sup> and were exempt from taxation for five years from date of sale.<sup>4</sup> Somewhat later, a distinction was made between the 500,000 acres granted for canals generally and the special grants to the Miami extension and Wabash and Erie canals.

Proceeds of the 500,000 acres were to go to the sinking fund, to be applied to the payment of interest on the public debt, and to no other purpose.<sup>5</sup> Proceeds of the other grants were to be used in construction.<sup>6</sup> In 1838 the minimum price of these lands was placed at \$3.00 per acre.<sup>7</sup> Sales of canal lands formed a considerable part of the amounts needed annually to meet the interest demand.

<sup>1</sup> See documents accompanying Governor's message of 1840.

	Grant of acres.	Sold up to 1848.	For
<sup>2</sup> 21 Hunt, 394. {	I. 500,000	495,982.84	\$618,244.78
	II. 464,106.53	299,982.91	387,580.63
	III. 282,778.60	112,037.25	402,987.32
	<u>1,246,885.13</u>	<u>908,003.00</u>	<u>\$1,408,812.73</u>

The amounts received are the amounts *paid* into the Treasury, and are nearly the same as the figures for the amounts for which the land was sold, *i. e.*, but little was *unpaid* in 1848.

- I. All of the \$618,244.78 has been used to pay interest.
- II. Miami extension lands, partly chosen on line of canal, partly elsewhere, in lieu of alternate sections which had been sold by United States. In 1848 the State claimed that 20,000 acres were still due it under this grant.
- III. Wabash and Erie lands. \$22,548.70 was used to pay interest in 1838.

<sup>3</sup> Act Feb. 12, 1829.

<sup>4</sup> Act Feb. 22, 1830.

<sup>5</sup> Act Feb. 23, 1830.

<sup>6</sup> Act Dec. 31, 1831, and Jan. 18, 1834.

<sup>7</sup> Act Mch. 19, 1838.

Nevertheless, if no other boon could be obtained, the tax rates would have to be raised. What was thought to be a boon was, however, at hand.

In different parts of the State there were large tracts of land known as the "School lands." Some of these tracts had been set apart for special purposes by Congress when Ohio formed part of the Northwest Territory.<sup>1</sup> The act of Congress, enabling the people of Ohio to form a constitution and apply for admission into the Union, provided that these districts should be reserved for the use of schools and such other uses as the Legislature might see fit.<sup>2</sup> In 1825 their number was somewhat increased, and they were all known as "School lands."<sup>3</sup> They were: "Conn. Western Reserve lands," "Salt Reserve lands," "United States Military lands," "Virginia Military lands," and "Section 16" in every township. Somewhat later appear in the same category "Ministerial Sect. 24," and "University lands," located at Athens. Before the improvement mania broke out in Ohio these lands had not been productive of much revenue. They had been rented and the proceeds distributed to the different counties for school purposes. Occasionally a piece of land was sold, and a school fund thus created,—the interest on which was also distributed to the counties. In 1827, three of these school funds<sup>4</sup> were loaned to the canal fund for one year<sup>5</sup> and were applied to the pay-

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<sup>1</sup> The Virginia Act of Cession of 1783, (for text, see Poore's "Charters and Constitutions," Part I., p. 428.) Reserved for officers and soldiers who had served under Col. G. R. Clarke in the war for Independence, certain lands on the northwest side of the Ohio, and (conditionally) lands on the Scioto and Miami rivers. These formed the "Va. Military lands," afterwards turned over for school purposes to the counties in which they lay. (Were the "U. S. Mil. lands incl."?)

<sup>2</sup> Act approved Apr. 30, 1802. (Poore's "Charters and Consti.," Part II., p. 1454.) Sect. 16 in every township, or, where that had been sold, its equivalent, was to be set apart for schools in that township. "The Scioto Salt Springs, the salt springs near the Muskingum River and in the military tract, with the sects. of land which include the same," were granted to the people at large, to be used as the legislature might direct; these too became school lands.

<sup>3</sup> See Treasurer's and Auditor's Reports.

<sup>4</sup> "U. S. Mil. fund"; "Va. Mil. fund"; "Salt Reserve fund."—See Treasurer's Report, 1827.

<sup>5</sup> Act Jan. 30, 1827.

ment of interest on the canal stocks. They were promptly paid back with interest at six per cent. The same thing was done in 1828 and 1829.<sup>1</sup> In 1830 another<sup>2</sup> school fund was added to the number loaned to the canal fund. The laws relating to the school funds guaranteed them a six per cent. interest in case they were borrowed by the State. After a few years of tasting, the auditor's appetite for school funds was whetted.<sup>3</sup> School lands were now sold to gratify this appetite, and a large debt of the State to the counties was rolled up. There seems to be a distinction running through all these funds. The part derived from rents, and interest paid from the canal fund, was regarded as "subject to distribution" and was paid over to the counties each year. The part derived from sales of land was regarded as "irreducible." This was the part loaned to the State and used to meet interest on State stock.<sup>4</sup> This use of the school funds was a great saving to the tax-payers. So long as the interest was promptly paid the counties sustained no loss. The practice simply compelled them to invest their funds in a particular way. The amount of school funds loaned in 1827 was \$45,506.43.<sup>5</sup> In 1835 the school debt was \$579,287.09, calling for an annual interest of \$34,757.22.<sup>6</sup> In 1848 it was \$1,566,930.87, with an interest charge of \$88,291.11.<sup>7</sup>

There was still another means of meeting the interest on the canal debt before it would be necessary to raise the tax rates. This was the money obtained by premiums on the State stocks and interest on the State deposits. The pledge put forth in the Act of February 4, 1825, and

<sup>1</sup> Act Feb. 12, 1828.—See Treasurer's Reports.

<sup>2</sup> "Section 16."—The funds were treated in different ways. Proceeds of "Salt Reserve lands" were to be loaned to the fund commissioners, with a guaranteed annual interest of six per cent., which was *to be funded annually till Jan. 1, 1835, after which it was to be distributed to the counties* (act March 2, 1831). Interest due on the "Conn. Western Reserve fund" prior to Jan. 1, 1835, *was to be funded to the principal* (act 1835). (See also Auditor's Report, 1835.) On all other school funds interest was to be paid annually.

<sup>3</sup> See Reports. <sup>4</sup> See Treasurer's Reports.

<sup>5</sup> Treasurer's Report, 1827.

<sup>6</sup> Auditor's Report, 1835.

<sup>7</sup> Auditor's Report, 1848.

repeated in several subsequent acts authorizing loans, that interest would be secured by taxation, had the effect of raising high the State's credit in the money market. The first loan (of 1825) of \$400,000, to be sure, was placed at a discount of two and one half per cent. But the rate of interest on this loan was only five per cent. On the loans of 1826, '27, '28, '30 and '32, the rate was six per cent. and premiums were obtained. In 1833—the year of the completion of the Ohio canal—the “foreign debt” was \$4,500,000. In 1835, it was the same. In selling this amount of stock the premiums had been \$264,315.43, or nearly six per cent. on the amount of stock sold.<sup>1</sup> The last loan to obtain a premium was placed in 1838. Stock was sold to the amount of \$2,010,000,<sup>2</sup> at a premium of 9.6 per cent.

The early loans were negotiated through the agency of the Manhattan Bank of New York. The bank also paid the interest to the stockholders. The State paid the bank \$2,000 per annum for these services.<sup>3</sup> Proceeds of loans were placed in this bank and transferred, in small amounts, as wanted, to Ohio banks—selected, apparently, at the discretion of the Fund Commissioners. The Manhattan Bank allowed the State five per cent. interest on deposits until drawn. Up to 1834, the amount received by the State from this source was \$131,468.89.<sup>4</sup>

To recapitulate: The means at the State's disposal to meet the interest on the debt caused by the public works before increased taxation need be had, were: 1st. The net profits of the public works—including tolls, water rents, sales of town lots, etc. 2d. Proceeds of sales of canal lands granted by Congress. 3d. The school funds. 4th. Premiums on sales of stock and interest on State deposits.

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<sup>1</sup> For these transactions, see Auditor's Reports, also 47 Niles, 202.

<sup>2</sup> Auditor's Report, 1838. Prem. equals \$192,969.53.

<sup>3</sup> 47 Niles, 202.

<sup>4</sup> 47 Niles, 202. In 1840 the Ohio Life and Trust Co. opened an office in New York and took charge of the transfer books of the State for \$1,500 per annum,—21 Hunt, 402.

Notwithstanding these buffers between the taxpayers of the State and the impending interest charge, it was found necessary to increase taxation. The rates levied by the Auditor, for the "State and Canal Tax," through the first years of the improvement system, were as follows: 1826, 1.7 mills on the dollar; 1827, 3.2 mills; 1828, 2.8; 1829, 2.9; 1830, 3.5; 1832, 3.7; 1833, 3.2.<sup>1</sup> These rates seem small, yet they caused a vast amount of grumbling, and it was with great reluctance and with many explanations and apologies that auditors imposed them.<sup>2</sup> Probably they really were burdensome, as, of course, all taxes are; but the county and town made large demands also. Taxes fell heaviest on the farmers. "Town lots and buildings," and "merchants' and bankers' capital" formed but a small part of the total amount of taxable property in the State.<sup>3</sup>

Up to 1845, property was assessed at a fixed minimum value. In 1835 there was a revaluation, which increased the total amount of taxable property over 37 %, and lowered somewhat the farmers' proportion. The tax law of 1845 changed the basis of assessment from a fixed minimum value to the real value of property, increased the item of "merchants' and bankers' capital," and brought in personal property which had hitherto escaped taxation.<sup>4</sup> This law went into full effect in 1847. The rates levied for "State and Canal tax" felt the change. In 1846 the rate was 7.9 mills on the dollar. In 1847 it fell to 2.7 mills.<sup>5</sup>

The completion of the Ohio and Miami Canals stimulated private enterprise. Canal and turnpike companies were formed, and charters obtained from the legislature. In 1832 thirteen railroads were incorporated.<sup>7</sup> Of the private

<sup>1</sup> Figures calculated from statistics given in 21 Hunt, 408.

<sup>2</sup> See Auditor's Reports; also 57 Niles, 403.

<sup>3</sup> See County Auditor's returns, given in State Aud. Reports.

<sup>4</sup> Calculated from returns of County Aud. in State Aud. Reps. for 1834 and 1835.

<sup>5</sup> 21 Hunt, 408.

<sup>6</sup> Calculated from statistics in 21 Hunt, 408 (these statistics are taken from Auditor's Reports).

<sup>7</sup> 21 Hunt, 399. The most important was "Mad. River and Lake Erie R. R.," from Dayton to Sandusky, 175 miles. Capital \$2,000,000. In 1849, 134 miles were completed (21 Hunt, 399).

canal companies, the most important were the "Pennsylvania and Ohio," and the "Sandy and Beaver" companies. It is beyond the limits of this paper to trace the history of these private works of internal improvement, but a brief notice may not be out of place, inasmuch as they were intimately connected with the Ohio State Canal.

High expectations were entertained in regard to these two transportation routes. The Pennsylvania and Ohio Canal, as projected, connected the State Canal at Akron, with the Pennsylvania system, extending northward from Pittsburgh, and would thus complete a direct line of communication from Cleveland to Philadelphia.<sup>1</sup> This line was 240 miles shorter than the line from Cleveland to New York. Furthermore, the ice left the lake at Cleveland from two and a half to three weeks earlier in the spring than it did at Buffalo.<sup>2</sup> It was thought that the advantages of the new route would be sufficient to divert the trade of the northwest from New York to Philadelphia; to build up the points of transshipment—Cleveland and Pittsburgh,—and increase the profits of the Ohio Canal and the Pennsylvania system.<sup>3</sup> Therefore, the States of Ohio and Pennsylvania favored the enterprise. The stock was held mostly in Philadelphia. The estimated cost was \$764,372.<sup>4</sup> The Sandy and Beaver Canal, from Bolivar on the Ohio Canal to Smith's Ferry, a point forty miles below Pittsburgh on the Ohio River, was also intended to furnish a short cut for east-bound freight. The estimated cost was \$1,292,465.<sup>5</sup> The Pennsylvania and Ohio company was chartered in 1827, and the Sandy and Beaver company in 1828.<sup>6</sup> But though incorporated so early, nothing was done on these works for a number of years. The charter of the Sandy and Beaver company was renewed March 3, 1834,<sup>7</sup> and the company was given twenty years to

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<sup>1</sup> Report C. C., Jan. 17, 1828. "O. Canal Doc., pp.," 299-303.

<sup>2</sup> 55 Niles, 84.

<sup>3</sup> 55 Niles, 84, and 195.

<sup>4</sup> Report C. C., Jan. 17, 1828, "O. C. Doc.," p. 302.

<sup>5</sup> 47 Niles, 261.

<sup>6</sup> Sandy and Beaver, Act Jan. 11, 1828; Pennsylvania and Ohio, Act Jan. 10, 1827.

<sup>7</sup> 32 O. Local Laws, 298.

complete their canal. The charter of the Pennsylvania and Ohio was renewed in 1835,<sup>1</sup> and again in 1836.<sup>2</sup> By the latter act the State acquired the right to buy out the company any time within fifty years, on payment of the amount actually expended in construction and repairs after deducting net tolls, with six per cent. interest on this amount. By a law,<sup>3</sup> to which I shall presently refer, the State subscribed one third of the capital stock of this company. In the act<sup>4</sup> renewing the Sandy and Beaver company's charter, the State gave the company the privilege, for seven years, of collecting tolls due to the State on all freight passing over the State canal, *provided* such freight was then transported a distance of twenty miles on the Sandy and Beaver Canal. In 1846 the engineer of the company estimated that this State bonus would range from \$500,000 to \$1,000,000 in seven years after completion of canal.<sup>5</sup> Notwithstanding this State aid the enterprises were never profitable. Owing to a lack of water supply, the country through which they passed was not suitable for building canals.<sup>6</sup>

There can be but little doubt that State aid tended to demoralize these companies. They felt, and rightly felt, that the State stood behind them to assist and even to take their concerns off their hands should they prove unprofitable.

<sup>1</sup> Feb. 20, 1835—33 O. L. L., 91.

<sup>2</sup> March 2, 1836—34 O. L. L., 223. See also pamphlet containing incorporating act and supplementary acts and reports.

<sup>3</sup> March 24, 1837.

<sup>4</sup> March 3, 1834, 32 O. L. L., 298.

<sup>5</sup> Report to directors of S. and B. Canal, by engineer W. Milnor Roberts, Jan. 31, 1846, p. 18.

<sup>6</sup> The Pennsylvania and Ohio Canal was completed about 1838, and the Sandy and Beaver in 1846. The building of the "Chicago, Pittsburgh, & Fort Wayne R. R." parallel to the Sandy and Beaver Canal, caused it to be abandoned in 1852. The Mahoning Railroad paralleled the Pennsylvania and Ohio Canal in 1852. The stockholders of the railroad held most of the canal stock. The railroad bought the State's interest in the canal company for \$30,000. The act of sale stipulated that the canal should be kept in a navigable condition. The railroad company put up the rates of toll so high that boats ceased to run. After some litigation, the banks were cut and the work was abandoned soon after. See 10th U. S. Census, vol. iv. ; also 48 Niles, 9.



Another private canal company, which early started out with a "boom" from the charter-granting Legislature, was the "Warren County Canal company." It was a small concern—capital \$200,000, in shares of \$50 each. It was incorporated February 22, 1830.<sup>1</sup> In view of the supposed benefit which the construction of this canal would confer on the Miami State Canal, it was exempted from State, county, or town taxation. In 1836 the canal was not finished. The act of February 29th of that year<sup>2</sup> directed the canal commissioners to take possession for the State, finish, and make it part of the Miami Canal. The directors were to take oath to the amount actually expended by them in construction and repairs, and the State was to pay them fifty per cent. of this amount. This company affords another instance of the inefficiency resulting from mutual dependence of State and private concerns. Responsibility for good management, thus divided, could not be fixed either on the State or on the directors.

The policy of State aid to private companies was early adopted in Ohio. But up to 1837 it had been granted in each case by special charter; after 1837 it was done by general law. Hitherto it had been dealt out by retail; now it was to be given by wholesale. It is hard to conceive of a more mischievous measure than that which passed the Legislature on the 24th of March, 1837. The act provides for loans of State credit to railroad companies, and for State subscriptions to canal and turnpike companies. The section referring to railroads reads as follows:

"Every railroad company that now is or shall hereafter become duly organized, and to the capital stock of which there shall be subscribed an amount equal to two thirds of its authorized capital, or an amount equal to two thirds of the estimated cost of the road and fixtures, shall be entitled to a loan of credit from the State equal to one third of such authorized capital or equal to one third of the estimated cost of such road and fixtures, to be delivered to the company in negotiable scrip or transferable certificates of stock

<sup>1</sup> 28 O. L. L., 124.

<sup>2</sup> 34 O. L. L., 145.

of the State of Ohio, bearing an annual interest not exceeding six per cent., and redeemable in periods not exceeding twenty years."<sup>1</sup>

The capital stock, real estate, tolls, and profits of a railroad company receiving such State certificates, were pledged for the payment of interest and redemption of the principal *before* the same should become due by the State. A company thus aided would go into the market and raise money on its State stock for use in construction. Now the holder of the certificates would look to the State in case the company failed on their interest. It was provided (in Sec. 6) that in case the company did so fail the State could take possession of the road.

When two thirds of the stock of a canal company, and one half that of a turnpike company should be subscribed privately, the Governor was authorized to subscribe for the State the remaining stock. To meet such subscriptions, the commissioners of the canal fund were to borrow on the credit of the State, and pay over the proceeds of such loans to the directors, in installments, as fast as the private subscriptions *should be actually paid in*. Among sundry other provisions of the act, the total amount of stock subscribed and credit loaned was not to exceed \$3,000,000 within one year from the passage of the act.

Under this law the amount of stock held by the State in private companies in 1848, was as follows: in twenty-six turnpike companies, \$1,921,675.71; in two canal companies, \$570,000; in three railroad companies, \$482,095.10; in all, \$2,973,770.81,<sup>2</sup> or sixty-five per cent. of the whole State debt as it stood in 1837,<sup>3</sup> the year of the passage of the law. Though not all paid in, these subscriptions were made in 1837, 1838, and 1839.<sup>4</sup> It will be noticed that this "loan law," as it was popularly called, was passed just as the financial storm of 1837 was beginning to break over the country. The law, very likely, had its origin in the specious prosperity of 1836. Ohio now threw overboard whatever moderation

<sup>1</sup> Sect. 2.      <sup>2</sup> 21 Hunt, 397.      <sup>3</sup> Debt \$4,570,000, 21 Hunt, 402, 403.

<sup>4</sup> See terms of sec. 1 act March 17, 1840.

had hitherto characterized her improvement schemes, and entered on a ruinous policy of inflation. Six great works of internal improvement by the State were projected this year, besides a few smaller ones. The great works were: the "Extension of the Miami Canal"; the "Wabash and Erie Canal"; the "Walhonding Canal"; the "Hocking Valley Canal"; the "Improvement of the Muskingum River"; and the "Western Reserve and Maumee Road." The estimated cost of all these works was \$8,577,300.64, or 1.6 times the whole State debt at the end of 1837.<sup>1</sup>

The construction of such an extensive system of transportation routes brought on the inevitable consequences: the rolling up of an immense debt with its telling interest, lowering of State credit, and increased taxation. The resources of the present were exhausted and the future was discounted. The legislation of 1838-9<sup>2</sup> is full of acts authorizing loans for every one of these new works in amounts which made previous loans seem small. In his annual message in December, 1839, the Governor stated that the debt was over \$12,000,000, "without including more than \$2,500,000 received by the State as her portion of the surplus revenue of the United States."<sup>3</sup> Almost all this debt bore interest at six per cent.

The first check to all this expansion came in the act of March 17, 1840, which repealed the "loan law" of 1837. I can find no indication that, up to this time, the companies benefited by the "loan law" had paid the State any return on her stock. On the contrary, the act of March 21st of this year is an indication that they did not mean to pay, but were turning all their profits into new construction. This act was an act to compel the payment of dividends. The directors of those companies which had received State aid were to take oath to the amount of revenue which had come in since receiving such aid; they were to deduct the amounts expended in necessary repairs. The balance would represent

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<sup>1</sup> 21 Hunt, 398. Debt, \$5,240,849, 21 Hunt, 402, 403.

<sup>2</sup> Acts March 14, 1838; March 19, 1838; March 16, 1839.

<sup>3</sup> 57 Niles, 311.

unpaid dividends. The State Auditor must then draw on this balance for the State's share. The penalties for dishonoring the Auditor's draft were \$500 and liability to prosecution by the State's Attorney. The attempt to compel payment of dividends was not altogether successful; mainly because there was but little to divide,<sup>1</sup> partly because the companies evaded the law. Companies in the southeastern part of the State sold the specie and "bankable paper" taken in at the toll-gates at a premium, and paid their laborers and stockholders in depreciated paper.<sup>2</sup> In 1841 the Auditor refused a dividend tendered in this depreciated paper, and commenced suit to recover the amount of the dividend in good money.<sup>3</sup> There was much litigation in the early forties to recover dividends.<sup>4</sup> Some of the companies refused to report funds which they might divide, in defiance of the law compelling payment; others appropriated such funds to the payment of old debts,<sup>5</sup> which was doubtless good financial policy, but was against the terms of the law. The companies were not, however, entirely to blame for the lack of dividends. The State was tardy in payment of the promised subscriptions. In 1843 the State discharged part of her unpaid subscriptions by crediting herself with \$3,922.55 of tolls which she thought belonged to her as dividends<sup>6</sup>; and she closed, in this year, her subscriptions to turnpike and canal companies by a payment of domestic bonds.<sup>7</sup> "The liability of the State to make indefinite loans of credit to railroads in six-per-cent. stock was compromised by releasing the State liens upon the roads and converting the sums already loaned into stock."<sup>8</sup>

The loan law had acted as a stimulus to speculation, reckless construction and wasteful expenditure of funds. It seems to have taken away all feeling of responsibility from directors. The public funds were poured into tubs which had no bottoms. The Auditor of the State testified, in 1839, to the abuses which it had engendered.<sup>9</sup>

<sup>1</sup> Auditor's Report, 1843.

<sup>4</sup> Auditor's Report, 1842.

<sup>7</sup> 21 Hunt, 401.

<sup>2</sup> Auditor's Report, 1841.

<sup>5</sup> *Ibid.*

<sup>8</sup> *Ibid.*

<sup>3</sup> *Ibid.*

<sup>6</sup> Auditor's Report, 1843.

<sup>9</sup> Report, 1839.

The repeal of this law meant that no more funds were to be squandered on private companies. Not so of the works which the State herself had undertaken in 1837. These daughters of the horse-leech were crying "give, give." They were far from being finished, and had only just begun to yield a scanty revenue,—not nearly enough to pay the interest on the amounts already expended on them.<sup>1</sup>

In 1840-41, additional loans, to the amount of nearly two million dollars, were authorized.<sup>2</sup> The Governor, in his message to the Legislature, Dec. 8, 1840, said that the total State debt was \$14,809,477.14, and that the acting commissioners estimated that the completion of the public works would require \$2,438,000.<sup>3</sup>

Of the works begun in 1837, the Muskingum Improvement<sup>4</sup> was finished in 1840; the Hocking Valley Canal in 1843<sup>5</sup>; the Miami Extension in 1847.<sup>6</sup> The Wabash and Erie Canal, though not finished, was put in operation in 1843,<sup>7</sup> and the Walhonding Canal in the same year.<sup>8</sup> In 1840, fifteen miles of the Western Reserve and Maumee Road were completed.<sup>9</sup>

In order that capital already sunk in these works might not be entirely wasted, it was necessary to go to the expense of completing them; but by 1840 retrenchment had begun. The State owed large sums to contractors while her ability to borrow was weakening.<sup>10</sup> In the summer of 1839, a Zanesville paper stated that the contractors on the public works in the vicinity of that place were paid thirty-three cents on the dollar, and intimates that operations on all the public works will soon cease on account of a scarcity of money.<sup>11</sup> Of the loans authorized by the act of March 23, 1840, \$400,000 might be borrowed without restriction as to time of payment or rate of interest, in order to get funds to

<sup>1</sup> See tables of tolls annually filed with Auditor's Reports; also, 21 Hunt, 407.

<sup>2</sup> Acts March 23, 1840; March 29, 1841.

<sup>3</sup> In December, 1839, the Governor, in his message, estimated that completion of public works would require \$1,500,000. 57 Niles, 311.

<sup>4</sup> 21 Hunt, 398.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*, 407.

<sup>9</sup> Governor's Message, 1840.

<sup>10</sup> 21 Hunt, 399.

<sup>11</sup> 57 Niles, 16.

pay contractors sums then due them. With the exception of cases where contractors had failed to meet their engagements, and with the exception of the Wabash and Erie Canal, and Western Reserve and Maumee Road, all operations on the public works were to cease for one year.<sup>1</sup> The Board of Public Works was reduced to four members, and the number of engineers cut down one third. In 1841 there was a further reduction in the number of engineers.<sup>2</sup> The act of March 29th of this year, authorized a temporary loan of \$581,000, to be placed on the "best terms practicable."<sup>3</sup> The proceeds of this loan were to pay contractors; and no money should be expended on the public works until they had been paid. Old contracts should be carried through, but no new contracts should be let during the year,<sup>4</sup> with the exception, again, of the Wabash and Erie Canal and Western Reserve and Maumee Road.

The Fund Commissioners found it impossible to sell the proposed stock either in New York or London, but there were two banks in Ohio, the Chillicothe Bank, and the Franklin Bank of Columbus, whose charters would expire in 1843. A bargain was therefore made with these banks. They were to advance the needed temporary loans in their own paper, and to receive therefor six-per-cent. State stock. In return for this accommodation, their charters were to be renewed.<sup>5</sup> Further temporary loans were made in Ohio and New York.<sup>6</sup> Still, not enough funds were obtained by these measures. An act was passed in March, 1842, authorizing the issue of as much six-per-cent. foreign stock as would realize \$500,000, with the pledge of the State that no more foreign stock should be issued.<sup>7</sup> Issues of domestic stock were authorized, a portion of it based on Wabash and Erie, and Miami Extension Canal

<sup>1</sup> Until April 1, 1841.

<sup>2</sup> Act March 29, 1841, § 4. I. Curwen's Statutes, 793.

<sup>3</sup> I. Curwen, 797.

<sup>4</sup> "Until the close of the session of the next General Assembly."

<sup>5</sup> 21 Hunt, 399.

<sup>6</sup> From Bank of Wooster, \$129,355.70 in pledge of stock; in New York, \$275,000; of Baring Bros., \$133,200.

<sup>7</sup> 21 Hunt, 399.

lands.<sup>1</sup> The fruits of this law seem to have been only the issue of "faith and credit" bonds as they were called, and canal land bonds,—in all \$350,081.05.<sup>2</sup> They were given to contractors in part payment of the sums due them. During the year they were at a discount of thirty to fifty per cent.<sup>3</sup>

Notwithstanding the pledge of the State that no more foreign stock should be issued, at an extra session of the Legislature in 1842, the Fund Commissioners were authorized to go again into the foreign market. They sold \$1,546,800 of bonds at an average discount of 33.6 per cent.<sup>4</sup> This relieved present necessities; but the completion of the public works would still require a million and a half. In 1843 this amount was authorized. The stock was to become due in 1851. The rate was raised to seven per cent. and the stock sold at par. It was taken in Wall Street, and was to be paid for in two installments, in May and September,<sup>5</sup> in *Ohio funds*. Now Ohio funds in New York were at a discount of two and one half per cent.<sup>6</sup> The State's share of the surplus revenue of 1837 was pledged for the payment of this stock. With the proceeds of this loan final payments were made to contractors of the sums due them.<sup>7</sup>

The inability of the State to pay her contractors and laborers in 1842 caused great distress among them. The Auditor of the State visited the public works in that year and said, in his annual report, that prevailing reports of suffering did not exaggerate it; that it was scarcely possible to exaggerate it.

The result of the inflation policy of 1837 was not merely to bring the State to the verge of bankruptcy, but to cause corruption and extravagance in building the public works. Two quotations from the Auditor's Report for 1843 may suffice to show this. The Auditor is speaking of the Miami and Miami Extension canals. He says: "I can-

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<sup>1</sup> \$1,300,000 authorized; \$300,000 on Wabash and Erie lands; \$200,000 on Miami Extension lands. 21 Hunt, 399.

<sup>2</sup> Auditors Report, 1842.

<sup>3</sup> *Ibid.*

<sup>4</sup> 21 Hunt, 401.

<sup>5</sup> \$600,000 in May; \$900,000 in September.

<sup>6</sup> 21 Hunt, 401.

<sup>7</sup> 21 Hunt, 401.

not shut my eyes to the fact . . . that there are too many officers and retainers, too much of a spirit of favoritism, and want of strict and rigid economy and accountability in these two works." Again: "That there has been, however, an inordinate and almost profligate expenditure of public money upon the Wabash and Erie and Miami Extension canals, no one who looks at the cost of the works can doubt."

With the issue of the seven-per-cent. stock, in 1843, the debt caused by the public works practically reached its high-water mark. For a few years there were issues and cancellations of domestic stock, based on canal lands, but in small amounts, and they did not affect the bulk of the debt. In 1843 the debt stood as follows:

Foreign loans payable in New York, . . .	\$16,395,212.00
Domestic bonds payable in Columbus, . . .	866,841.65
Including :	
1. Faith and Credit bonds,	
2. Miami Extension bonds,	
3. Wabash and Erie bonds,	
4. Turnpike bonds,	
5. Bonds for completing Miami extension.	
School debt . . . . .	1,406,267.46
Total debt . . . . .	<u>\$18,668,321.11</u>
In 1850 there matured, of 5% stock, \$400,000	
" " " 6% " 4,018,658	
" " " 7% " 1,500,000	
Total . . . . .	<u>\$5,918,658<sup>1</sup></u>

The act of March 21, 1849, authorized the Fund Commissioners to fund the five-per-cent. and six-per-cent. stocks and bonds, about to become due, into stocks of the same denomination due in 1860. The surplus revenue of 1837, due to the State from the counties in 1850, was to be used to pay the million and a half of seven per cents.<sup>2</sup>

The constitution of 1851<sup>3</sup> provided for a sinking fund for the payment of the interest on the debt and redemption of

<sup>1</sup> Auditor's Report, 1843.

<sup>2</sup> 21 Hunt, 401.

<sup>3</sup> Article VIII., Sec. 7.



the principal as it should become due. The fund was to consist of the net annual income of the public works, and such other resources as might be provided by law; and, if these were not enough, money raised by taxation. A minimum of \$100,000 must annually be raised for this fund and compounded annually at six-per-cent. interest.

In 1854 the foreign debt was \$14,917,000.<sup>17</sup>

" 1857 " " " " 13,730,566.79.

" 1880 " " " " 6,476,805.00.<sup>1</sup>

Though often embarrassed for funds, Ohio never defaulted on the interest due on the loans contracted for internal improvements. The interest on her domestic bonds was also promptly paid. Owing to an obscurity in the Auditor's and Treasurer's reports, I am unable to say whether the interest due the school funds, borrowed by the State, was, at all times, promptly and fully paid. Up to 1830 it was paid each year in full; in 1839 and the following years it was so paid; between 1830 and 1839, there were yearly payments of interest, nearly, if not quite equal to the amounts due. The school funds did not, therefore, suffer by being loaned to the State. In one of the Auditor's reports, however, occurs the statement that school *lands* were being sold far below their real value.

The average annual gross profits on all the public works, from 1833 to 1848 inclusive, yielded not quite 3.1 per cent. on the cost of construction.<sup>2</sup> On somewhat incomplete returns, it appears that the average annual dividend paid the State by private companies, from 1840 to 1848 inclusive, represented only a little over  $\frac{9}{10}$  of 1 per cent. on the State stock.<sup>3</sup>

As business enterprises, therefore, both the public works and the private concerns aided by the State were failures.

<sup>1</sup> Jan. 1st of each year. Figures from 10th U. S. Census, vol. 7.

<sup>2</sup> Cost = \$15,022,503, total gross profits = \$7,409,708.52, average annual gross profit = \$463,106.78. 21 Hunt, 407.

<sup>3</sup> The incompleteness consists in an inability to get figures for the amounts of stock held by State *each year*, on which dividends were due. I have taken amount held in 1848. It was sometimes greater, sometimes less, than this amount. The average annual amount would not, probably, differ much from the amount held in 1848. Stock held in 1848 = \$2,973,770.81; total dividends 1840-1848, \$256,055.99.—Auditor's Reports.

## STATISTICS OF THE PUBLIC WORKS OF OHIO.

Names of Canals.	Points Connected.	Built.		Length Miles.	Width Feet.		Depth Feet.	Locks (Feet).				Cost of Construction.
		Begun.	Completed.		Top.	Bot.		No.	Length.	Width.	Rise and Fall.	
Ohio.	Cleveland—Portsmouth.	1825	1835	33	40	26	4	150	90	15	1207	\$4,605,202
Miami.	Cincinnati—Dayton.	1825	1835	67	50-60	5 1/2	5 1/2	93	87-99	15	907	1,020,000
Miami Extension.	Dayton—Defiance.	1837	1847		50-60							3,108,965
Wabash and Erie.	Ind. State line—Toledo.	1837	1843		50-60							2,055,260
Walhonding.	Rochester—Roscoe.	1837	1843	25	40		4	11	90	15	90	607,360
Hocking.	Carroll—Nelsonville.	1837	1843	42	40		4	26	87	15	203	917,670
Muskingum Impr.	Zanesville—Marietta.	1837	1840	75				12			126	1,028,028
Sandy and Beaver.	Bolivar—Smith's Ferry.	1834	1846	84								\$2,000,000
												Original cost \$420,000
Penn. and Ohio.	Akron—Penn. State line.		1838	87								shortly after 1852.
Athens Branch.	Nelsonville—Athens.			14								Originally private; taken by State, 1836.
Lebanon Branch.	Middletown—Lebanon.			20								217,000

These statistics are taken from Vols. 4 and 7 Tenth U. S. Census, supplemented by statistics from 21 Hunt, 398 and 407. Canals below the line are those abandoned by 1880; those above were running in 1880. The Sandy and Beaver and Penn. and Ohio were *private* works. Penn. and Ohio was also known as the "Mahoning Canal," and the Lebanon branch as the "Warren County Canal." The "Western Reserve and Maumee Road" was another State work. The "National Road," from Wheeling to Columbus, was never properly a State work, as it was built by Congress, and turned over to the State. The tolls did not suffice to keep it in repair. (See Auditor's Reports.) [The date of completion of the *Ohio*, and *Miami* canals, and their cost of construction differ from dates and figures given in text of paper. Dates and cost in the table are both from Tenth U. S. Census, Vol. 7 (Hist. Ohio Debt). For dates and figures given in text, authority is cited in text.

## LIST OF AUTHORITIES.

- I. General Laws of Ohio :—1825-'41.
- II. Local Laws of Ohio :—1825-'41.
- III. State Treasurer's Reports :—1827-'30 ; 1832-'35 ; 1837-'48.
- IV. State Auditor's Reports (same years).  
 The Auditor's Reports contain annual returns from the *County* auditors, in tabular form, of the amounts, classes, etc., of taxable property on grand levy, and the *later* reports contain reports of the Fund Commissioners and Board of Public Works, amount of tolls on public works, etc.
- V. "Ohio Canal Documents" : An official history of the public works during their earlier period, containing :
  - (1) Canal Commissioners' Reports, 1823-'28.
  - (2) Canal Fund Commissioners' Reports, 1825-'27.
  - (3) Extracts from Gov. Messages, 1823-'27.
  - (4) Legislative Committee's Reports, 1825-'28.
  - (5) Civil Engineer's reports, 1822-'28.
  - (6) Sundry letters from one of the C. C. to Dewitt Clinton and others in New York, and their replies.
  - (7) Resolutions from Ohio Assembly to U. S. Cong., and an act of Cong. granting land to Ohio for canals (approved May 24, 1828).
- VI. Miscellaneous Public Documents :
  - (1) Gov. Message, 1840, and accompanying letter about canal lands.
  - (2) Penn. and Ohio Canal Co.'s Charter, and other Acts of Legislature. Reports of the Co. to Ohio Legislature, 1828, '33, '34.
  - (3) Sandy and Beaver Canal Co.'s Report to Stockholders (meeting of 1844) ; also Report of Co.'s Engineer to Directors, 1846.
- VII. Niles' *Weekly Register*, vols. 47-73 (1834-'48). (Vols. Sept., 1834,-March, 1840, were examined page by page ; after that, by index.)
- VIII. Hunt's *Merchants' Magazine*, vols. 1-5, 8-13, 20-27 (1839-'52).
- IX. *The Bankers' Magazine and State Financial Register*, vols. 1-9 (1846-'55).
- X. Tenth U. S. Census Report :
  - (1) Vol. 7 (History of State Debts).
  - (2) Vol. 4, On Transportation.
- XI. Internal Commerce Report, for 1879, '80, '81, and '82.
- XII. Report of Senate Committee on Transportation to Seaboard, vol. I., p. 67 *et seq.* ; vol. II., p. 537 *et seq.*

## THE OLD FEDERAL COURT OF APPEAL



## THE OLD FEDERAL COURT OF APPEAL.

By Professor J. FRANKLIN JAMESON, of Brown University.

[Before reading his paper, Mr. Jameson briefly referred to the pamphlet upon the same subject, written by the Honorable J. C. Bancroft Davis, reporter of the Supreme Court of the United States, and privately printed a short time before. The text of his paper, somewhat abridged, is as follows:]

It is frequently, and indeed very justly, signalized as one of the capital defects of the Articles of Confederation and of our federal system in all the years preceding the year 1789, that it provided no federal judiciary of extensive scope. But it is well to remember that the federal government was not wholly without judicial functions and organs during those years. In the first place, Congress could hardly avoid being called upon to pronounce in disputes of boundary and jurisdiction between States, and the Articles of Confederation provided an especial process, by which Congress was to determine both these disputes, and such as concerned the private right of soil claimed under different grants of two or more States.<sup>1</sup>

Decidedly more important than this occasional tribunal was the old federal Court of Appeal in Cases of Capture, and the committee which preceded it. That court, the one permanent judicial body which the Confederation maintained, is now well-nigh forgotten by most persons. It seems worth while to call it again into remembrance, for two reasons. In the first place, it is well to do all we can to set in clear light the antecedents of important American institutions. The most important of them are too often conceived of as having been without antecedents, as having

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<sup>1</sup> It seems to me plain that the process here alluded to was modelled on that provided by Mr. Grenville's famous Act of 1770 for the trial of disputed elections to the House of Commons.

been instantly called into existence by the creative fiat of great statesmen. But here, as in France, we shall come to perceive that the year 1789 did not make a complete break in institutional history. Although the most august and powerful tribunal in the world has derived little of its splendor from its obscure and feeble predecessor, it is well for us to know that it had a predecessor, and that the life of that predecessor did something toward making possible the creation of a comprehensive federal judiciary. In the second place, the history of the committees for appeals, and of the permanent Court of Appeals, which eventually took their place, casts light upon the character of the Confederation, and illustrates its weakness in a less familiar aspect.

The outbreak of the Revolution was marked by a great extension of privateering. This occasioned many prize cases. At the same time the vice-admiralty courts were rapidly destroyed by the Revolution. The paralysis of the former prize courts made it necessary to provide a substitute. The necessity was of course first felt in Massachusetts, where an act was passed on November 1, 1775, which provided for three courts, to be held at different places in Massachusetts, and to have cognizance of captures. The journals of the Continental Congress show, and Judge Davis has interestingly brought out the point, that the first suggestion of a federal court for such purposes came from General Washington. Writing to the President of Congress from the camp at Cambridge on the 11th of November, he says, after referring to the Massachusetts act, of which he encloses a copy :

"As the armed vessels, fitted out at the Continental expense, do not come under this law, I would have it submitted to the consideration of Congress, to point out a more summary way of proceeding, to determine the property and mode of condemnation of such prizes, as have been or hereafter may be made, than is specified in this act.

"Should not a court be established, by authority of Congress, to take cognizance of prizes made by the Continental vessels? . . . "

It is to be observed, that Washington makes here no suggestion of an *appellate* court. In pursuance of his

recommendations, Congress, on November 25th, adopted a series of seven resolutions, dealing with the subject of maritime captures. Among other matters, they embraced a recommendation to the legislatures of the several colonies to erect courts, in which cases of capture might be tried by jury. The sixth resolution, relating to federal cognizance of such cases, was as follows :

6. " That in all cases an appeal shall be allowed to the Congress, or such person or persons as they shall appoint for the trial of appeals, provided the appeal be demanded within five days after definitive sentence, and such appeal be lodged with the secretary of Congress within forty days afterwards, and provided the party appealing shall give security to prosecute the said appeal to effect, . . . "

Washington, who had repeated his suggestion to Congress, wrote on hearing of their action : " The resolves relative to captures made by Continental armed vessels only want a court established for trial to make them complete. This, I hope, will be soon done, as I have taken the liberty to urge it often to the Congress."

This desire of the commander-in-chief was not fulfilled, as we shall see, until a considerably later time. Meanwhile, the recommendation of Congress respecting colonial admiralty courts was soon acted on by several of the colonies, and eventually all had such courts. As the Revolution went on, and the spirit of '76 declined, the jealousies of States toward the federal government increased in this, as in other particulars, and their legislation, in respect to appeals from their own prize courts, was marked by evident effort to curtail the powers more generously conceded at the outset.

The first appeal which came before Congress from any of these State prize courts was the case of the prize schooner *Thistle*, which was brought before Congress on August 5, 1776, on appeal from the admiralty court of Philadelphia. This case was soon referred to a special committee, whose report, reversing the decision of the State court, was approved by Congress. After seven cases had been in this manner adjudicated by committees specially appointed in each instance, Congress, on January 30, 1777, appointed a



standing committee of five to hear and determine appeals in prize causes. It was this committee, the membership of which was frequently changed, that decided such appeals during the ensuing three years.

It was not until more than five years had elapsed since Gen. Washington's recommendation, that a regular court was erected. How is this preference for trial by committee to be explained? Mainly, in all probability, by a doubt whether the powers of the federal government extended so far. But as this doubt was in the end overcome, I venture to adduce, in further explanation of the maintenance of the procedure by committee, the example of the appellate prize courts of England. The organization of the courts to which, as colonists, they had been accustomed to see prize cases carried on appeal from the colonial vice-admiralty courts may fairly be supposed to have been in the minds of members of Congress when providing an appellate tribunal for the prize courts of the States. After 1708, all appeals from the vice-admiralty courts of the colonies went directly to the lords commissioners of appeal in prize causes. The commission included all the privy councillors by name, but virtually the tribunal was a judicial committee of the privy council. The Congressional committee seems to have transacted its business in much the same way as its English analogue.

The erection of a regular appellate court for prize cases seemed for a long time to depend on the fate of the Articles of Confederation (in which Congress had been given the power to erect such a court) until the complications arising out of one famous case made evident the need of a permanent tribunal invested with greater power and prestige, and caused it to be established some time before the Articles of Confederation were completely ratified. That case was the case of the sloop *Active*, a case which for thirty years had continued to disturb the relations between Pennsylvania and the United States. Gideon Olmstead and three other citizens of Connecticut, on board the British sloop *Active*, rose against the master and crew, and took command of the

sloop ; but before they could reach port, were captured by a Pennsylvanian armed brig, which took the *Active* into Philadelphia, and claimed it as prize. Olmstead and others made a counter-claim to the whole. The State court of admiralty adjudged them only one fourth. They appealed to the federal commissioners of appeal, who, on December 15, 1778, reversed the sentence of the State court, and gave judgment in favor of Olmstead and his companions. In spite of this decision, and of an injunction subsequently granted, the judge of the State court of admiralty, declaring himself unable to disregard the verdict of a jury, ordered its marshal to sell the ship and cargo, and to bring the proceeds of the sale into court, and this was done. The authority of the United States was thus entirely set at naught. Thereupon the commissioners declared that they would not proceed further in the affair, nor hear any appeal, until their authority was so settled as to give full efficacy to their decrees and process. They also took steps toward laying the proceedings before Congress.

The commissioners' report to Congress was successively referred to two committees, and much debated. The resolutions finally adopted on March 6, 1779, with no dissenting voice but that of Pennsylvania, affirmed the right of the Committee of Appeals to examine into decisions on facts as well as decisions on the law ; declared that Congress, being invested with the supreme sovereign power of war and peace, and the power of executing the law of nations, must have in prize cases a control by appeal over both judges and juries, as otherwise Congress could not give satisfaction to the complaints of foreign nations, and concluded that the committee in the case of the *Active* had competent jurisdiction to make a final decree, and that therefore their decree ought to be executed.

Meanwhile public attention had been strongly drawn to the inadequacy of the system. In the report of the committee of Congress a paragraph not embodied in the resolution had read : "Your Committee beg leave to suggest that, in the prosecution of the Enquiries referred to then,

they have discovered some Imperfections in the present system of marine Judicature, and to recommend to the Congress that the same be revised." This same spring, Spanish remonstrances on the capture of two Spanish ships by Massachusetts privateers compelled Congress to recommend to the States a more liberal concession of appeals to Congress, and Massachusetts and New Hampshire, with jealous niggardliness, passed acts conceding appeals in cases where subjects of friendly powers were claimants. Moreover, in May there came a strong appeal from Philadelphia itself, in the form of a petition signed by many of its chief citizens, and forwarded with approval by the council of Pennsylvania. After commending the establishment of a privateering system and of State admiralty courts by Congressional recommendation, the petition names, as one of the chief reasons why privateering enterprise, at first so ardent, had lately declined, the composition of the federal appellate tribunal. The constant change of judges, they asserted, made impossible the establishment of fixed principles. Composed of members of Congress, the court could never sit in any other place than where Congress resided. Hence came uncertainty, delay, and expense in proceedings before it, and a consequent reluctance to engage in privateering. They therefore begged Congress to constitute a permanent tribunal for appeals in prize causes.

Under the pressure applied in the several ways described Congress slowly moved toward definite action. In December an ordinance for establishing such a court was finally reported. It provided that there should be three judges, any two of whom might hold court; that they should have the powers of a court of record in fining and imprisoning for contempt and disobedience; that the court should proceed in accordance with the usage of nations, and not by form of trial by jury; that the State admiralty courts should execute its decrees; that it should sit at Philadelphia first, and afterward elsewhere, if not farther eastward than Hartford, nor farther southward than Williamsburgh; that it might appoint a register and a marshal; that appeals should

be limited in time, as heretofore; that a duty of one per cent. of the appraised value of all prizes coming before the court be paid into the Continental treasury, out of which sum each judge should receive a salary of 30,000 dollars per annum; and that the States should be recommended to pass laws requiring their courts of admiralty to execute this court's decrees, and to decide prize cases without a jury.

On the 15th of January, 1780, the resolutions establishing the court, permitting it to appoint a register, enjoining the observance of the law of nations, and arranging the places of sessions, were adopted. The others were not, but an advance of 12,000 dollars of salary was provided for. On the 22d of January Congress chose, as the three judges of the court, George Wythe, of Virginia; William Paca, of Maryland; and Titus Hosmer, of Connecticut; and eleven days later, adopted a form of commission. Writing to the judges elect on February 1st, Samuel Huntington, President of Congress, after informing each of his election and salary, says:

"I hope the Business may not employ so much of your time as to interfere with your other Engagements, and deprive the public of your Service in this important Station, as it may be in the power of the Court to state the Time of their Session convenient for themselves, without Injury to the Public."

Chancellor Wythe having declined, Congress, on April 28th, chose Cyrus Griffin, of Virginia, in his stead. Messrs. Hosmer and Paca accepted, but Mr. Hosmer died in August. On May 5th resolutions were brought in, looking to the transference of all prize appeals to the new court, and providing the necessary oaths. In the original resolutions the tribunal was entitled "The High Court of Appeals in Maritime Causes." But the ordinance which was finally passed effecting the transference styles it "The Court of Appeals in Cases of Capture." Judge Davis computes that "65 cases in all were submitted to the Committees of Congress, of which 49 were decided by them, 4 seem to have disappeared, and 12 went over to the Court of Appeals for decision";

and that "57 cases in all, including the 12 which went over, were submitted to the Court of Appeals, and all were disposed of." Eight more of its cases are reported in 2 Dallas. Four of these were decided by Judges Griffin and Paca in 1781 and 1782. In November, 1782, Mr. Paca, on becoming governor of Maryland, resigned his judgeship; and on December 5th, George Read, of Delaware, and John Lowell, of Massachusetts, were associated to Mr. Griffin as judges. Meantime, the Articles of Confederation having been fully ratified, a detailed draft of an ordinance for the regulation of the court had been reported to Congress in June, 1781, re-committed in July, and again reported on March 30, 1782.

Such was the leisurely habit of Congress. It was ordered that the next Tuesday be assigned for the second reading. But the Journals of Congress seem to contain no further record of the ordinance. In the absence of such record of the exact form in which it finally passed, an interest attaches to the information which George Read's brother sent him from Philadelphia, while his nomination was being talked of. "The salary," he writes, "is six hundred pounds per annum, and he [Fitzsimons] said it would not require above six or eight weeks at most in the year to perform all the duties. There are three stated sessions annually,—viz., one at Hartford, Connecticut, and at this place, and one in Virginia, but it is very seldom there is business to occasion all these meetings." Again, in response to further inquiries, he writes: "I am told the judges are paid as part of the civil list; all which, I am told, receive pretty regular quarterly payments." The salaries had been fixed at \$2,250 in September, 1780.

It is obviously impossible to discuss the various cases decided by the court, though two of them were afterward important as cases in the United States Supreme Court, the cases of *Penhallow v. Doane* and *Jennings v. Carson*. The business of the court dwindled after the conclusion of the war, (though Hamilton, as we might have expected, made an especial effort to keep it alive), and at the end of their May session in 1784, and again in December, the judges

informed Congress that all the cases submitted to them had been disposed of. In January, 1785, Mr. Griffin wrote expressing his hope that they would not be dismissed without some expression from Congress of approbation of their official conduct.

The remainder of the history of the court is characteristic of the Confederation. The December letter was reported upon on July 1st, when the report was recommitted, but the salaries of the judges were stopped. Secretary Thomson communicated this resolution to the judges. Judge Griffin intimated to Mr. Read that "a little party business had predominated in the affair," and remonstrated in January, 1786; and Congress in February passed a resolution expressing their sense of the ability, fidelity, and attention of the judges, and explaining their curt action of the preceding summer. In June, 1786, Congress finding new business arisen, authorized and directed the judges to sustain appeals and grant re-hearings and new trials, voted them ten dollars a day during session and travel to and from it, and directed them to assemble for transaction of such business at New York in November. Mr. Read wrote to the secretary requesting a postponement to December, as he wished to go from the Annapolis Convention to the session of the Delaware legislature, and Mr. Griffin wished to go to that of Virginia.

The secretary replied that they must come, as notice had been spread abroad. A session occurred at New York in November, another in April, and another, the last session of the court, at Philadelphia in May, 1787. Two days before its final adjournment, the memorable convention met, which provided the United States with a more comprehensive and a more effective judiciary. We cannot doubt that the Court of Appeals in Cases of Capture, though, as remarked by counsel in *Jennings v. Carson*, "unpopular in those States which were attached to trial by jury," had an educative influence in bringing the people of the United States to consent to the establishment of such a judiciary. It could hardly be that 118 cases, though all in one restricted branch

of judicature, should be brought by appeal from State courts to a federal tribunal, without familiarizing the public mind with the complete idea of a superior judicature exercised by federal courts. The Court of Appeals in Cases of Capture may therefore be justly regarded not simply as the predecessor, but as one of the origins, of the Supreme Court of the United States.

## CANADIAN ARCHIVES





## CANADIAN ARCHIVES.

By DOUGLAS BRYMNER, Dominion Archivist.

When I strongly desired to come to this meeting, I had no other intention than to be a listener, to place myself at the feet of historical Gamaliels, from whom I might receive lessons that would be of use in the prosecution of the work with which I have been entrusted. You, Mr. President, however, having asked me to prepare a paper on "Canadian Archives," I felt constrained to yield, thus losing the advantage which all silent men possess—of being thought wise when they are otherwise.

The functions of the archivist are not the same as those of the librarian; neither can he be called a historian. He collects the documents from which history is to be written, and must, therefore, have a sufficient knowledge of the works that exist treating not only of the subjects with which he has to deal, but also of others which have, at first sight, a very slight and indirect bearing on them. As an archivist he has to collect the rough material to be formed into structures of exquisite beauty in the hands of the skillful workman, or to be raised by the dishonest and incompetent into unsubstantial erections, which crumble into ruins before the first rude blast of adverse criticism.

The more clearly does the archivist feel this distinction between him and the historian, the more useful is his work likely to be. If he seeks to obtain reputation as a historian, by so much will his proper duties be encroached on. He must not forget that he is only the pioneer, whose duty is to clear away obstructions; the cultivated fields will follow.

But you, Mr. President, did not ask me to trouble you with commonplaces. You wished me to tell you something about the growth and progress of the collection of Canadian

archives, of which you have spoken so kindly on various occasions, and have again referred to in your Inaugural address.

Many of our Canadian records have been, unfortunately, destroyed by fire on various occasions. The peripatetic system, under which the seat of government was removed at intervals from one town to another in the original Canadas, acted, during its continuance, as a bar to the systematic collection of records. Subsequently the division of powers, by which the control of lands, education, etc., was given to the legislatures of the Provinces composing the Dominion, deprived the Federal Government of the records relating to many most important subjects. There was no systematic collection of records when, in 1871, a very numerous signed petition was presented to the three branches of Parliament, praying that steps should be taken to have the material relating to the history of the country collected and arranged for reference. On a joint report from the Senate and the House of Commons, Parliament assigned to the Minister of Agriculture, who is also Minister of Arts and Statistics, the duty of accomplishing the object the petitioners had in view. I had the honour of being selected to organise the new branch of the Civil Service, and in June, 1872, was furnished with three empty rooms and very vague instructions.

The first step was naturally to make a preliminary survey of the work to be done. Fortunately, steps had been taken by Dr. Taché, the Deputy Minister of Agriculture, to have a large collection of military correspondence, which had been stored at Halifax for transmission to London, retained there, till the result of an application for the transfer of these papers to the Dominion Government could be known, the application having been made in anticipation of the appointment of an archivist, provided for by Parliament, but not then made. On my appointment I proceeded to Halifax, where I examined and reported on the papers, but the negotiation dragged on, there seeming to be little room to hope for a satisfactory result.

In 1872, the preliminary examination was confined to the Capitals of the different Provinces, at each of which I spent some time, and in 1873 I went to London, where I visited the various Government offices, the British Museum, every place, in fact, that I thought would throw light on the work I was appointed to organise. I then recommended, as a first instalment, that the collections made by General Haldimand, Governor of Canada during the United States Revolutionary War, should be copied. These had been presented to the British Museum in 1857 by his nephew, Mr. William Haldimand. Two collections were presented by that gentleman. The one known as the "Haldimand Collection" relates to the events of that officer's career on this continent; the other—the "Bouquet Collection"—deals more especially with the military operations of Bouquet, the general outlines of which are known to historians. The documents in this latter collection cover a period of ten years, from 1754 to 1764, those for the year 1765, which form part of it, relating chiefly to the administration of Bouquet's estate. The collection is in thirty volumes.

The period covered by the Haldimand Collection is the most obscure in Canadian history, and the correspondence throws a flood of light not only on events in Canada of that epoch, but on contemporary events in what were known as the American Colonies, whilst they still formed part of the British Empire, and during the Revolutionary War, from the first muttering of discontent, immediately after the cession of Canada, to the attainment of independence twenty years later. The information contained in these papers relates to an immense extent of territory. On the Ohio; the Mississippi; the Illinois; the Wabash; in the Floridas; on the Lakes from Superior and Huron eastward; in the frontier posts to the north and south; Michillimakinak, Detroit, and Niagara; on Lake Ontario, with its fortified posts on the mainland and islands; on both sides of the St. Lawrence above and below Montreal to the Gulph and onwards to Nova Scotia; on the Richelieu, Lake Champlain, the Mohawk valley, the Hudson. In fact, there is

scarcely a locality bordering on, approaching to, or whose interests might affect the fortunes of Canada, respecting which there are not more or less minute details to be found in this mass of correspondence, which fills no less than 232 volumes, and covers a period of thirty-three years of public service.

The writers who treat of the period during which Haldimand was Governor and Commander-in-chief had little opportunity of testing the truth of the charges brought against him by those who were detected in a conspiracy and imprisoned for the safety of the Province; nor does much regard appear to have been paid to the peculiar circumstances in which he was placed from the time he succeeded Carleton in 1778 to the date of his recall in 1784. I must confess, that I have derived from the study of the correspondence a high idea of the abilities of Haldimand, and of the moderation he showed in the exercise of almost unlimited power at so critical a period, when a calm and sober judgment was needed to restrain passion and to enforce repression without having recourse to violence.

Before leaving London in 1873, I made arrangements for copying the documents contained in these two collections. In arranging for this work, it was proposed, in order to lessen the cost, to have only a careful selection made and copied. My own view was, that no man could tell what documents might or might not be safely omitted, even the most trifling being a link in the chain of evidence, as every investigator knows. On this point I may be pardoned for quoting the words of a recent writer on Egyptian antiquities. He says: "No object has been deemed too trivial for examination. The relations of one monarch to another have been found on scraps of vases, chips of wood, and fragments of papyri. A mutilated hieroglyph on the dress of a statue has revealed a political mystery, and a series of erasures on granite blocks, a religious revelation." A curious instance of the correctness of the statement just quoted is to be found in the proof afforded by a contract for the sale of a piece of land, recorded on a tablet now in the British

Museum, of the existence of a King of Babylon twenty-five centuries ago, which was suspected but not proved. The Minister of Agriculture, the Hon. John Henry Pope, saw the propriety of my recommendation and gave the necessary authority to have the collections copied in full.

But whilst engaged in the work of investigation, that of acquisition was not neglected. By personal negotiation with the authorities at the War Office, for which the previous correspondence had prepared the way, I succeeded in convincing them that the collection of correspondence at Halifax would be more useful at Ottawa than immured in the vaults in London, and by the end of the year 1873, fully eight tons of official documents were brought from Halifax and deposited in their original cases in the Archive rooms.

Those familiar with the subject know the formidable character of the work of arranging and classifying such a mass of documents. The papers were secured in cases, each containing correspondence for one or more years, tied up in bundles. An attempt had been made to indicate the subjects by titles, but there had been no effort to arrange them according to any sort of systematic classification. Each title, of which there were 82,000, covered a variable number of enclosures. I have in round figures estimated the documents at 300,000 (given by a typographical error in one of my reports as 200,000), but I think that an actual count would show them to be about 400,000, probably more.

The first thing to be determined on was the system of arrangement to be adopted. I have said that I was turned loose into three empty rooms. I had now a mass of unsorted documents to deal with. Being entirely alone, I had full scope to adopt any system I chose, without let, hindrance, or remonstrance. First, then, I adopted, as the foundation, the chronological order, so that the record of events might follow naturally, no matter who was the recorder. Next, as in dealing with these documents, it would be impossible to have them indexed, even imperfectly, for years, the most practicable way would be to divide

them into subjects, breaking them up, as it were, into fragments for mastication. In much of the correspondence this was comparatively easy, from the general official rule (not always, however, observed) of treating only one subject in each letter. There are numerous exceptions to this. The Queen's father, the Duke of Kent, who was in command in North America, was one of the greatest offenders, his letters dealing at great length with all sorts of subjects, whilst the Duke of York, commander-in-chief, Her Majesty's uncle, deals with one subject at a time, and one only. They had one peculiarity in common. Each had a secretary who wrote a beautifully clear hand, a characteristic also of the royal brothers, as, in fact, of most of the gentlemen at the end of the last and beginning of the present century.

Having decided on the first principle of arrangement, namely, that it was to be chronological—I proceeded with that, in the first place, by means of tin boxes, each with four pigeon holes. These I had arranged round the four walls of one of the rooms, and by taking a limited number of years, I was able to get the letters, returns, accounts, memorials, &c., arranged by years, months, and finally days of the month. It should be borne in mind, that the documents were of many shapes and sizes, from a scrap of paper of possibly quarter of an inch, to the largest size of paper made, and the writing and ink from the rudest and poorest up to the most cultured and the finest that could be produced. Let me remark, too, that in the earlier documents each of the covering letters had endorsed the name of the writer, the place where and the date when written, and a short but clear abstract of its contents. Gradually as time wore on, these careful notes ceased; the abstracts first became obscure and then vanished, only the date being endorsed. Much of the trouble of ascertaining the subject of the earlier documents was removed by their careful endorsement, but that advantage was lost by the modern and imperfect practice.

The next matter to be attended to was the choice of subjects and titles.

The first part of the work had been purely mechanical, the arrangement of documents according to dates requiring no special qualifications beyond industry and patience. The next, however, demanded a little more brain power in order to determine the subjects and their titles, and to select the documents that should properly belong to each subject. It is clear that the latter could only be done by reading the documents; it is equally clear that to wade through each of a mass of papers, between three hundred thousand and half a million in number, meant a work of many years. But here training on the press came into play. The work of rushing daily through files of exchanges to select the most interesting material for the making up of the next day's paper is in itself a training for work of this kind. Like the medicine prescribed by the Greek physician Douban to the leprous King of Persia, which was absorbed by exercise, as told in the veritable *Arabian Nights*, the contents of the documents seemed to be absorbed rather than taken in by any slower process, and thus the work went on from day to day. I may express, parenthetically, my thankfulness that, rapidly as the work was done, I find in indexing that few errors were committed in the arrangement. The documents were then bound, the work proceeding like that on Solomon's Temple, "neither hammer, nor axe, nor any tool of iron was heard while the house was building." In other words, I kept every thing as quiet as possible, until some progress had been made in the work of collecting and arranging.

The collection of which I now speak covers a period from about 1785 to 1870. It largely relates to military affairs in the Provinces, including the preparations to meet anticipated hostilities consequent on the first French Revolution; original reports of the events of the War of 1812; the strained relations between Great Britain and the United States for some years previous to the declaration of war; the rebellion in Canada in 1837-8, with the proceedings of the sympathisers from the United States. Then there are reports of expeditions to the Northwest; many most im-



portant details respecting the Indians from about 1788; documents relating to the construction of the Canals by the Imperial Government; very complete reports of the proceedings in Canada of the Royal Engineers; details of the defensive posts and fortifications; much interesting information respecting the chief cities and new settlements, including those formed from the weaver population of Scotland, ruined by the introduction of the power loom, and who, it may be noted, made most successful settlers. The division with the title "Settlers" includes also a collection of the original correspondence with the exiled French Royalists who, after the massacre of Quiberou and the suppression of the struggle in La Vendée and Brittany, entered into negotiations with the British Government for a grant of land in Upper Canada. They began an establishment about thirty miles north of Toronto, but the situation was ill-chosen and the settlers unsuited for the rough work of clearing, so that the scheme collapsed, and the leader, the Count de Puisaye, died in poverty in London. In addition to the original documents relating to this last subject, I had copies made in London of other correspondence, which makes the information on this attempt at settlement fairly complete. It may be said that almost every thing relating to local subjects coming within the jurisdiction of the military commanders is to be found here, besides much that is of a civil character. There is, however, little of political history. That information has to be sought for elsewhere, and the gap in that respect is being rapidly filled up.

This collection being complete, I have distinguished it as Series C. To facilitate research, I had an index placed in each volume. At first I thought of limiting the index to the names of the writers and recipients of letters, to memorialists and subjects, but finally resolved to grapple with the task of indexing every name of every person and place mentioned, together with such subjects as could be briefly stated. To do more was hopeless. By this time the copies of the Haldimand and Bouquet Collections were

beginning to arrive. These I had arranged to have bound in London, after revision, so that they could be placed on shelves on arrival. As a relaxation from the drudgery of indexing, I took to making abstracts of these, specimens of which are to be found in the annual reports on Canadian Archives since (and including) 1884. In making these abstracts, I had a double end in view: one, to make the documents readily accessible; the other, to make a thorough revision of the copies, so as to make certain they were exact transcripts. Lists were made of all doubtful points, which I transmitted to the revisers in London for further examination. By this process, I believe as exact copies have been secured as it is possible to obtain in transcribed documents. It is scarcely necessary to say, that I have insisted on the copies containing every peculiarity of spelling, every error, and that no variation in these or in any other respect is allowed.

In addition to the larger and more general collections, a considerable number of original warrants for the payment of officials, clergy, schoolmasters, pensioners, and others, besides accounts relating to the Lake Marine, to the Indian and other departments was added. These also I arranged and had bound in 197 volumes. They are fully indexed, and have been found to be of great service in the settlement of questions in dispute. Then there have been smaller lots, constantly added to, consisting of family papers, including such documents as original accounts and journals of the Invasion of Canada in 1775, correspondence relating to the War of 1812, Indian treaties, early settlements, and many of a purely local nature. These are bound, but not yet indexed; all received are arranged and bound immediately after their reception.

As it seemed an obvious duty to gather up the scattered threads of the occupation by the French of a large portion of North America, copies were procured of the old Acadian registers, so far as these were obtainable. That work has been going on since, so far as pecuniary means would allow. Copies of many of the church registers of the old French

settlements in the West have also been obtained and are now on the shelves.

The report on Archives for 1882, to which I beg to refer, shows the extent of the ground to be covered, if the Archives are to be in any degree of use to the Dominion as a whole, instead of degenerating into a merely local collection of documents. I therefore conceived it to be absolutely necessary to set about the work of collecting, as at least a beginning, the printed journals, sessional papers, departmental reports, &c., of all the Provinces. The attempt to obtain the earliest of these records has been fairly successful. The gathering of them as they are issued; the securing of pamphlets, new and old, even of fly sheets, has been carefully attended to. In several cases, the early Provincial records in printed form are much more complete than those in the libraries of the Provincial Legislatures.

In 1881, I obtained the services of one clerical assistant. That year I went to London to make arrangements for completing the copying of all the documents relating to Canada in the British Museum. As the report for 1881 contains all that is of importance concerning that visit, I think it only necessary to say further, that in dealing with the question of the grant to Sir William Alexander, the Lord Stirling so well known in connection with Nova Scotia, I was not satisfied with the papers relating to that Province, but obtained also a considerable number of documents concerning New England, the entanglement of Lord Stirling's affairs with those of Gorges and Mason appearing to render that necessary.

If I have been too prolix in entering into these details, I must apologise for taking up the time of a meeting like this. It has been done partly to show that no really good work of this kind springs into being suddenly; that it is a process requiring time and labour, but that the difficulties of forming such a collection are not insuperable. Patience is needed, above all watchfulness and perseverance. The man entrusted with the work must make up his mind that it is to be accomplished, and undertake it, not as a heavy task,

but as something to rouse his faculties. Nor is the expense deadly. There has never been a sum of more than \$6,000 annually voted by Parliament for this service. It requires great economy in management ; it is not always sufficient, but any excess of expenditure beyond the grant is speedily checked.

I shall be very brief in what remains. In 1883, I returned to London and obtained from the Imperial Government much more favourable conditions for transcribing the State papers, than the rules in force allowed, many restrictions being removed, which were found to impede the work.

In July, 1883, Mr. Joseph Marmette was appointed assistant Archivist, and entered on the work of investigation in Paris. I would refer you to the reports for 1883, 1885, 1886 and 1887, for Mr. Marmette's account of the documents in Paris, which I feel sure will be found interesting. We are ready to begin the work of copying there, when Parliament shall see fit to grant a sufficient amount for the purpose. What I did that year in London, for the time I could be spared from duty in Canada, is to be seen in the report for 1883. I spent some weeks in Paris, and was, I think, fortunate in securing a number of valuable historical works.

Besides the works specially mentioned, we have on the shelves the British State papers of the series bearing the title "America and West Indies," from 1755, the first year of the final struggle for supremacy on this Continent between Britain and France. These papers include the operations in Nova Scotia, the siege and capture of Louisbourg, the campaigns in Canada till the conclusion of the war. It is very desirable to begin the copying of that portion of this series which relates to Nova Scotia and the Maritime Provinces generally, but fortunately the intelligent and careful labour of Dr. T. B. Akins, the Archivist of Nova Scotia, renders delay less prejudicial than it would otherwise be. His work has been admirably done. The "Colonial Series" of the State papers begins in 1760, continuing, so far as the old Province of Quebec is concerned, till 1791,

when it is parted into two streams by the formation of the two Provinces of Lower and Upper Canada. When that point was reached, I had the staff of copyists divided, half taking Lower and half Upper Canada, so that the papers relating to each might be received concurrently. That work is carried on steadily, with a competent staff of copyists.

We have, also, a variety of family papers of various periods; numerous documents relating to the refugee loyalists, inaccessible to Sabine and others who have hitherto written on that subject; copies of old parish registers from Acadia and the lower St. Lawrence, from the Illinois, Detroit, &c., besides notarial registers, originals and copies from the latter named place. More of these registers would have been copied had means permitted. There are miscellaneous documents of general interest, as well as those local to Canada; a very valuable collection of printed historical works and pamphlets old and new; county histories, manuscript and printed, and, as I have already said, original accounts of many of the early settlements; the valuable collection of the publications of the Public Record Office, London, numbering now upwards of 400 volumes, which I was fortunate enough to obtain as a gift from the British Government. The new volumes of these are sent as issued, besides the important and valuable reports of the Historical Manuscripts Commission, which is bringing to light the treasures hitherto concealed in the muniment rooms of the old British families.

My ambition aims at the establishment of a great storehouse of the history of the Colonies and Colonists in their political, ecclesiastical, industrial, domestic, in a word, in every aspect of their lives as communities. Included in this should be the history of the old French regime in Acadia, Canada, Louisiana, and to the westward; of all the British Colonies in America from their beginning down at least to 1796, when the last of the frontier posts were transferred to the United States. The fortunes of all were so intertwined that it is impossible to separate the records of them without injury. It may be a dream, but it is a noble dream! It has

often spurred me to renewed effort, when the daily drudgery—for it is drudgery—was telling on mind and body. It might be accomplished, and Ottawa might become on this continent the Mecca to which historical investigators would turn their eyes and direct their steps. But who is sufficient for the task?



THE STATES'-RIGHTS CONFLICT OVER THE  
PUBLIC LANDS





## THE STATES'-RIGHTS CONFLICT OVER THE PUBLIC LANDS.

BY JAMES C. WELLING, LL.D., President of the Columbian University.

Ever since the human race, in the evolution of political society, passed from the stage of clan government to that of government based on territorial occupation, questions about land, as the seat and symbol of political power, have formed the grounds of ultimate civil debate among men. Questions of land, whether arising from the impacts of population under the pressure of a conscious or unconscious Malthusianism, or whether arising from motives of pure and simple political aggrandizement, have arrayed continent against continent, people against people within the bounds of the same continent, and state against state within the bounds of the same confederation. The inter-continental proportions of this great secular conflict may be seen to-day in the eagles of war and diplomacy gathering around the carcase of Africa in the wake of the vultures formerly drawn by the ravin of the slave trade. The desolating wars waged for the establishment and maintenance of a balance of power in Europe illustrate the sway of the same principle among the great states comprised within the bounds of that continent. The chronic conflict between the states of the Germanic confederation, a conflict brought to an end, in some of its acuter symptoms, on the field of Sadowa, and the bitter feud which so long obtained between the slaveholding and non-slaveholding States of the American Union, a feud brought to an end at Appomattox, in Virginia, in the year 1865, will suffice to illustrate the tremendous pressure of this same principle within the bounds of the two

greatest confederations of the modern world. It is to some of the salient features of "Land Politics" in the United States that the present inquiry will be directed.

The conflict over the public lands of the United States has been essentially a States'-rights conflict in point both of substance and of form. The roots of the conflict are deeply planted in the colonial history of the country. The American colonies, at the outbreak of the Revolutionary war, had not learned to love one another, or even to live together on terms of good neighborhood. The points of political difference between them were better defined than their points of political unity. They differed from each other in the nature of the charters by which they were held and administered. And these administrative differences were aggravated by a difference in the social and economic institutions of the several provinces. The Eastern colonies were democratic in their social tissue, being chiefly composed of moderate freeholders. The Southern colonies had but few moderate freeholders, and were dominated by a planting aristocracy, in whom the possession of slaves had generated the virtues and faults of feudalism, as described by Burke—a spirit of freedom fortified by the haughtiness of domination. The population of the Middle colonies partook of a blended character compounded from both of these elements. These discriminations were distinctly recognized in the political literature contemporaneous with the formation of the Constitution, and, as just stated, are almost textually cited from a well-known pamphlet of Richard Henry Lee.<sup>1</sup>

But the distinction which more than any other imperilled the formation of our political union at the outbreak of the Revolutionary war was a distinction based on a difference in the territorial claims of the several colonies as organized by the Continental Congress for the maintenance of American independence. Several of the States comprised in the Union had definite and circumscribed boundaries. Others had indefinite and uncircumscribed boundaries stretching

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<sup>1</sup> See Ford's "Pamphlets on the Constitution," p. 296.

westward to the South Seas. By the "landless" States it was maintained that the unoccupied western territory, wrested from the British crown by the joint exertions of the States united, should enure, in reason, justice, and right, to the benefit of the United States. The landless States differed, however, among themselves in defining the terms on which the public lands should be held for the usufruct of the Confederation—all of them except Maryland holding that they should be used simply for the fiscal benefit of the Union, while the political jurisdiction should continue to vest in the States to which this vast domain was nominally and severally attached. Maryland, with a clearer insight into the conditions of the problem which Congress was called to solve, insisted that the political jurisdiction of the territory should be ceded to the Union, in common with the land itself, and that the said territory should be subsequently parcelled out into free and independent States for admission into the Union. The great "landed" States of Massachusetts, Connecticut, New York, and Virginia scouted for a time this arrogant pretension of the "landless" States. In the successive stages and phases of this controversy the States'-rights conflict over the public lands came to a sharp definition. It was more and more accentuated, until at last the Maryland view prevailed. The great landed States, with a few reservations not needing to be recited in this general view, made a cession of their lands, with political jurisdiction annexed, to the government of the United States.

The political watershed of American history is to be found in this supreme determination of the territorial question presented to the American people in the interval from 1776 to 1781 and 1782. It is the "Great Divide" which has determined all the political strategy of subsequent times in regard to the disposition of the public lands. The dispute on this subject was so sharp, and the contumacy of Maryland against the pretensions of the landed States was so persistent, that it was not until 1781 that she signed the Articles of Confederation and completed the formal bond

of the Union.<sup>1</sup> The Revolutionary war had meanwhile been lasting five years. The country was already in sight of the peace which came in 1783 to crown the struggle for independence. But the conflict over the public lands, instead of being appeased after 1781, was only the more definitely brought into the lists prepared for the joust and tourney of contending sections. Virginia, the most commanding of all the States in point of territorial possessions, had not yet completed her cession. Maryland, in spite of her long delay, had simply yielded her assent to the Articles of Confederation in the faith and hope that the example set by New York would be speedily followed by all the landed States. Long before her, New Jersey had acceded to the Union with the premise that she did so in the hope and expectation that the landed States would ultimately respond to the call of patriotism in this matter.

And after this controversy had wellnigh imperilled the formation of the Union, it returned to vex the negotiations connected with the conclusion of peace. It was a States'-rights conflict over the public lands which prevented, for a time, any agreement in the Continental Congress as to the terms on which peace should be concluded. Indeed, the question was distinctly presented and discussed, whether, on the cessation of hostilities with Great Britain, it might not become necessary for the landless states, with the power of the Union at their backs, so far as they could wield it, to take the State of Virginia in hand and reduce her to submission in the matter of her landed pretensions. Threats of civil war and portents of civil war were freely bandied about at that crisis on the floor of the Continental Congress. Persons are still living—the writer is one of them—who witnessed that remarkable scene on the floor of the United States Senate when, in 1856, the Hon. Benjamin F. Wade, of Ohio, naturally incensed at an expressed approval of the assault made upon Senator Sumner, openly challenged the Southern Senators then and there to the ordeal of

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<sup>1</sup> H. B. Adams, "Maryland's Influence upon Land Cessions to the United States."

mortal combat. Extraordinary as that defiance was, even on the eve of an armed conflict for the political possession of the Territories, it was but the loud reverberation of a similar challenge uttered over the public lands in 1782, when, as in 1856, some men were eager for the fray, while others were seeking just as eagerly to put off the evil day of military conflict over this burning question. As this prologue to the swelling scenes of our land politics at a later day is not so familiarly known in our annals, it may be well to reproduce some of its most striking notes.

It was while a hot discussion was pending in the Continental Congress as to the terms on which peace should be concluded with Great Britain, that this whole controversy between the "landed" and the "landless" States witnessed a sharp recrudescence. The representatives of the landless States were not eager for a peace which should enure to the special benefit of the landed States, by leaving them in the possession of a vast domain acquired by the common blood and treasure of all the States. The representatives of the landed States were not eager for a peace which should enure to the special benefit of the Union at their expense. In support of the former view, a special emphasis was laid by its advocates on the moral rights of the landless States and the moral rights of the Union, as against the technical rights of the landed States. In support of the latter view, a special emphasis was laid by its advocates on the reserved and sovereign rights of States as against those who would fain strip the landed States of possessions admitted to belong to them before the war, and of possessions which had not been surrendered by the Articles of Confederation. The pure and simple terms of this conflict over the public lands in 1782 will distinctly appear from the following *résumé* of the debate which was had at that period over this topic:

John Rutledge, of South Carolina, on the 8th of August, 1782, said that he did not enter into the war for himself or for those inhabiting the lands on the waters falling into the Atlantic, but for posterity—for those who would hereafter inhabit the country beyond the mountains, to the extent

formerly claimed by the Crown of Great Britain as belonging to these thirteen States. He would continue the war forever rather than be circumscribed in narrower bounds.<sup>1</sup>

John Witherspoon, of New Jersey, held that the fixing of the boundaries among the State could not be made an ultimatum to the satisfaction of all the States; that the happiness of the people on this side of the Alleghany Mountains was a sufficient object to induce them to enter into the war; that some of the States had their boundaries fixed and determined; that the State he had the honor to represent was one of them; that it had not entered into the war, nor would it, he believed, be willing to continue it for the sake of boundless claims of wild, uncultivated country, more especially as it was a matter of dispute, and would undoubtedly occasion much contention among the States as to whom the country, if ceded, would of right belong.

Mr. Telfair, of Georgia, "was for fixing our boundaries to the Mississippi. As to our claims beyond that to the South Sea, he would leave them to discretion."

In the formal "Statement of Facts and Observations" drawn up by a Committee of the Continental Congress, in 1782, to support the territorial claims of certain States and of the United States (for the instruction and guidance of our negotiators in concluding a Treaty of Peace with Great Britain, which should also be a Treaty of Boundaries and Limits), the following doctrines were laid down:

"1. That the territorial rights of the thirteen United States, while in the character of British colonies, were the same with those defined in the instructions given to Mr. J. Adams on the — day of August, 1779.

"2. That the United States, considered as independent sovereignties, have succeeded to those rights, or [and it was on this 'or' that the whole onus of the controversy turned,

"3. That if the vacant lands cannot be demanded upon the precedings grounds, that is, upon the titles of the individual States, they can be deemed to have been the prop-

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<sup>1</sup> Thomson Papers: N. Y. Historical Society Collections for 1878, p. 100 *et seq.*

erty of his Britannic Majesty immediately before the Revolution, and to be now devolved upon the United States *collectively taken*." <sup>1</sup>

This third head is explicated in the body of the report as follows: "The character in which the king was seized was that of king of the thirteen colonies collectively taken. Being stripped of this character, its rights descended to the United States for the following reasons: 1. The United States are to be considered in many respects as an undivided independent nation, inheriting those rights which the king of Great Britain enjoyed as not appertaining to any particular State while *he* was, what *they* are now, the superintending governor of the whole. 2. The king of Great Britain has been dethroned as king of the United States by the joint efforts of the whole. 3. The very country in question hath been conquered through the means of the common labor of the United States." <sup>2</sup>

The reading of this third clause, as thus expounded in three dimensions, was interrupted by a stern and peremptory protest from the great landed State of Virginia.

Mr. Bland, of that State, moved that the third clause be expunged. The motion was seconded by Arthur Lee. A long debate ensued. The members from States of which the boundaries were fixed and circumscribed defended the retention of the clause. The members from States which claimed territory to the Mississippi or the South Sea, as well as the members from States whose eastern boundary was undefined, opposed the retention of the clause. Mr. Madison avowed his willingness to retain the clause for the sake of public policy. He said that the clause had been imported into the discussion for the purpose of reconciling all the States to the Report, but at the same time he expressed the opinion that "there was no solid foundation in the argument." Yet he said that he saw plainly "if the clause was struck out, sundry States would object to the rest of the Report, and therefore he was for its standing." With a view, however, to the concealment of the differences

<sup>1</sup> The Thomson Papers, pp. 115, 116.

<sup>2</sup> *Ibid.*, p. 139.



of opinion which obtained on this topic, he thought it improper that any vote should be taken on the pending question.

Mr. Bland, however, insisted that a vote should be taken, and this brought Arthur Lee to his feet for the defence of the Virginian position. He argued that the supposition on which this third clause proceeded was groundless, and that the reasoning by which it was sought to defend the clause was fallacious. He contended that the claim to the western territory rested solely on the titles of the individual States, and that the Congress had no authority but what it derived from the States. The States, he said, were individually sovereign and independent, and upon them devolved the rights of the crown within their respective territories. Could the sovereignty of the crown of Great Britain, he enquired, devolve on the United States in Congress assembled before such an assembly existed? If only after such an assembly had existed under the Articles of Confederation, it would still remain to inquire whence is the sovereignty of the United States derived? Is it in the Confederation? Is it in the Treaty of Alliance with France? Does it really exist?<sup>1</sup>

John Witherspoon, of New Jersey, advocated in this debate the extremest *National* view in opposition to the extreme *States'-rights* view championed by Arthur Lee. He said:

"The several States are known to the powers of Europe only as one Nation under the style and title of the United States. This Nation is known to be settled along the coasts to a certain extent. If any European power were admitted to establish colonies or settlements behind them, what security could they have for the enjoyment of peace? What a source," he exclaimed, "of future wars!"

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<sup>1</sup> Recalling, besides, an old antagonism between himself and Franklin in the matter of the competing land-jobs known as those of the Ohio Company and the Walpole Grant, Lee objected to Franklin as one of the negotiators of peace, because Franklin was understood to be interested in western lands, and had, therefore, a personal interest in supporting the jurisdiction of the United States as against that of Virginia. The Thomson Papers, p. 143.

Whether the uncultivated territory belonged to one State or the other, was, he said, a matter of no concern to the European powers, but they could all see the importance of the question to the general security of the United States, and the principle could therefore be a valuable one as a makeweight in the conduct of negotiations for peace.

The antagonism on this question was too wide and deep to be bridged over by any compromise of opinions. The landed States would not yield their reserved rights. The landless States would not yield their national claims and pretensions. And, as the delegates from Virginia refused to practise the prudent *ménagement* recommended by Madison, it only remained to submit the question to the ordeal of a yea and nay vote.

Yet if the question were brought to such a definite issue, it was seen that the dissidence would reveal a split running through the ranks of the States embattled for the maintenance of their independence, and would reveal a damaging scission precisely at the moment when it was most necessary that they should present an undivided front in order to insure advantageous terms in the negotiations for peace. It was, we see, a States'-rights conflict over the public lands, which, for a time, imperilled the conclusion of a Treaty of Peace with Great Britain in 1782. As the bitter feud between the two classes of States could not be adjusted by any consensus of opinions, it only remained that for the present they should agree to disagree on the point in controversy. It was moved and carried that the whole report should be recommitted. The States'-rights conflict over the public lands was simply postponed.

This discordancy in the Continental Congress between the defenders of States'-rights and the upholders of national rights in the matter of the public lands, came still more prominently to the front on the 27th of August, 1782. On that day a petition was presented in Congress, signed by a number of inhabitants of "a tract of country called Kentucky." The petitioners alleged that they had taken an oath of allegiance to the United States; that they consid-

ered themselves subjects of the United States, and not of Virginia; that the charter under which Virginia claimed that country, had been dissolved; that in consequence of this dissolution, the country had reverted to the crown of Great Britain, and that by virtue of the Revolution the right of the Crown devolved on the United States. Therefore they prayed the Congress to erect them into a separate and independent State, and admit them into the Federal Union.<sup>1</sup>

Arthur Lee, of Virginia, openly proclaimed that to countenance such a petition as that was to insult Virginia. Accordingly he moved that the petition be not received, but that it be referred to Virginia herself.

James Madison seconded the motion. He said: "As to the supposition that the right of the Crown devolved on the United States, it was so extravagant that it could not enter into the thought of any man. If the right of soil devolved, why not the right to the quit-rents and confiscated estates?"

Mr. Williamson, of North Carolina, thought the question raised between the States and the government was a very serious one, and that whenever it was discussed it would be attended with most serious consequences, and he apprehended that the sword alone could decide it. He wished it might be put off a very long time, and not be reviewed in their time, nor in the time of their children, or their grandchildren.<sup>2</sup>

Mr. McKean, of Delaware, was sensible that it *was* a question of a very serious nature, but he thought that it *must* be discussed. He was not for putting off the discussion to so distant a day. He was not for leaving it to posterity. He was willing to face it with all its consequences, and hoped it would be decided before the present war was concluded. If the people of "Kentuckey" had taken an oath of allegiance to the United States, he avowed a willingness to take them by the hand. He was not afraid of Virginia. He hoped no State in the Union would ever be so great as

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<sup>1</sup> The Thomson Papers, p. 145.

<sup>2</sup> *Ibidem*, p. 147.

to give laws to all the rest, and that none would be suffered to acquire so much power that the others could not control it.

Mr. Clark, of New Jersey, wanted to be informed more particularly respecting the conduct and views of Virginia with regard to the western country. . . . He understood that the Virginians had it in contemplation to form the western country into distinct subordinate governments, and to send out lieutenant-governors to rule them. This would be going on the plan of Great Britain with regard to her former colonies, and must bring on another revolution, which will be attended with convulsion, and break the peace of the Union.

Mr. Howell, of Rhode Island, maintained that the right of granting western lands now devolved on the United States.

Mr. Witherspoon replied specifically to the argument of Madison. He said that it certainly could enter into the thoughts of men that the rights of the crown had devolved on the United States, because it had entered into his thoughts, into the thoughts of the petitioners from Kentucky, and into the thoughts of very many sensible men at the beginning of the present controversy. The western uncultivated lands had early been spoken of as a fund for discharging the debts that might be contracted in the war by the United States. "It would appear a strange whim," said the New Jersey delegate, with genuine Scotch pleasantry, "if a sentiment which occupied and engrossed the minds not only of speculative but of illiterate men, of the bulk of the inhabitants of many of the States, had no solid foundation to rest on. For his part, he thought it founded on truth, on justice, on the nature of things, and was warranted by the laws of society. This controversy was begun and the war was carried on by the united and joint efforts of the thirteen States. By their joint exertions, and not by those of any one State, the dominion of Great Britain was broken, and consequently the rights claimed and exercised by the crown devolved on all, and not on any indi-

vidual State. Why should one State reap more advantage than another? . . . With regard to the powers of Congress, or of the United States collectively taken, they could not be exactly defined in the Articles of Confederation. Cases would arise for which no previous provision could be made. These came under and were decided by the great law of necessity, which was admitted as a law of nations. It might happen that a State would grow so powerful and so ambitious as to be dangerous to the other States in the Union. In such a case the law of necessity and of self-preservation might compel the others by a sovereign act of authority to abridge the power of that State, and even to divide it into two or more distinct and independent States.”<sup>1</sup>

It will thus be seen that the forcible reduction and even the violent partition of States were matters of public discussion in our Federal Legislature more than eighty years before another States'-rights conflict over the public lands resulted in the military reduction of the Confederate States, and in the partition of the very State around which this battle of words was waged in 1782. The States'-rights conflict is older than the Constitution. It found a forum in the Continental Congress, as well as in that which afterwards met in Washington. “There is no place,” wrote Abraham Baldwin, of Georgia, to Charles Thomson, under date of February 4, 1786, “where the clashing of State interests is so strongly marked as on the floor of [the Continental] Congress.”<sup>2</sup>

After the States'-rights conflict over the public lands had imperilled the formation of the Federal Union and the conclusion of peace with Great Britain, another phase of the same conflict returned to imperil the possession of the Mississippi valley. Spain was naturally angered by the stipulations of a secret article which had been inserted in our Treaty of Peace with England for the circumscription of her territorial claims southward and westward on the North American continent. “Castilian grandees went to bed and

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<sup>1</sup> *Ibidem*, pp. 145-150.

<sup>2</sup> *Ibidem*, p. 204.

dreamed of invincible armadas," says John Fiske. "Congress was promptly informed that until this affair should be set right the Americans need not expect the Spanish government to make any treaty of commerce with them; and, furthermore, let no American sloop or barge dare to show itself on the Mississippi below the Yazoo, under penalty of confiscation. When these threats were heard in America, there was great excitement everywhere, but it assumed opposite phases in the North and in the South. The merchants of New York and Boston cared little more about the Mississippi River than about Timbuctoo, but they were extremely anxious to see a commercial treaty concluded with Spain. On the other hand, the backwoodsmen of Kentucky and the State of Franklin cared nothing for the trade on the ocean, but they would not sit still while their corn and their pork were confiscated on the way to New Orleans. The people of Virginia sympathized with the backwoodsmen, but her great statesmen realized the importance of both interests and the danger of a conflict between them."<sup>1</sup>

Such were the elements of this new States'-rights conflict over public lands not yet reduced under our national authority. The new political cotillon reveals an entire change of partners in the contra-dance. The extreme States'-rights emphasized by Virginia in 1782 for the assertion of her separate and individual claims are now emphasized in behalf of the rights not only of her sister States in the South and of the future States of the Southwest, but also in behalf of Federal rights accruing to the benefit of the common Union and newly placed under the safeguard of the Treaty of Peace with England. The commercial States of the North and East are now found ready to sacrifice the political interests of the Southern States and the economical interests of the whole Union in the Mississippi valley, with a view to the speediest possible reëstablishment of their own commercial prosperity, which had been blasted by the war. It was insisted by the Spanish envoy that the United States

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<sup>1</sup> John Fiske, "The Critical Period of American History," p. 209.

should renounce the right to navigate the Mississippi below the Yazoo as the condition of procuring a commercial treaty. John Jay, the Foreign Secretary, recommended such a renunciation for the term of twenty-five years. The seven States of Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, New Jersey, and Pennsylvania—all Northern States—voted for the untoward measure against the earnest opposition of all the Southern States then represented in Congress—Maryland, Virginia, North Carolina, South Carolina, and Georgia. The measure was discussed in secret session. The mouths of the Southern delegates were gagged by the Northern majority, in spite of the vehement protests uttered by Grayson, of Virginia, and by his colleagues, who argued that such a surrender was a breach of the national covenant made with Virginia when she ceded her "back lands," because it would lower the value of those lands in the market; because it would postpone indefinitely the formation of new States which were to be carved out of them; because it deprived the Western and the Southern States of a natural right vouchsafed to them by the physical geography of the country; and, finally, because it operated a virtual dismemberment of the Union by permanently fixing the weight of population on the northern side of the continent.

A question of order was raised by the Southern delegates on constitutional grounds against a motion which proposed to compass a reversal of the instructions previously given to the Secretary of State in the matter of the Spanish treaty. The Articles of Confederation required the concurrence of nine States to establish regulations for the conclusion of a treaty, and the previous instructions had been given by this constitutional majority. But it was now proposed to repeal these instructions by the vote of less than a constitutional majority in such cases. In spite of this remonstrance the Northern States adhered to their determination.

No injunction of secrecy could keep a proposition so important as this from reaching the ears of the Southern

people. The Legislature of Virginia protested against it in tones at once "loud and deep." Indignation meetings were held in the South and Southwest. New Jersey countermanded the action of her delegates. Pennsylvania began to waver in her policy on the subject. And though a few delegates from the Eastern States, like Gorham, of Massachusetts, were still frank enough to avow that the shutting of the Mississippi would be advantageous to the Atlantic States, and that therefore they wished to see it shut, the illiberal sentiment was openly denounced by Madison as being "in strong contrast with the principles of the Revolution and with the language of American patriots." The hapless measure was finally allowed to perish by pure inaction, for the want of support from its Eastern and Western parents. Even Jay, its foster-father, with a candor which does him honor, was brought to disown this changeling offspring of a distempered time. But Gardoqui, the Spanish Minister, was fain to recognize at the time that the proposition had probably received its death-blow from Virginia.<sup>1</sup> We are therefore called to thank this "Mother of States," not only for the great Northwestern territory which she ceded to the Union and helped to dedicate to freedom, but also for the great Southwestern territory (this side the Mississippi), which she helped to rescue from weak surrender to a foreign power. In *this* States'-rights conflict over the public lands she certainly deserved well of the country.

How the tide of battle over the public lands ebbed and flowed in the Continental Congress, from 1784 to 1787, is matter of too common history to call for detailed recital in this paper. I pause at this stadium of the conflict simply to remark that it was at that epoch that our Land Politics became complicated for the first time with the question of slavery and its extension, with the question of slavery prohibition, and the recapture of fugitive slaves. The conflict was hushed by the Ordinance of 1787, because, under the terms of that ordinance the Northern States bated their breath to demand the prohibition of slavery in only a limited

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<sup>1</sup> "Correspondence of the Revolution," Vol. IV., p. 187.



part of the unoccupied territory, and to concede a provision for the rendition of fugitive slaves from that defined region. The Southern States bated their breath to demand nothing more as to this region (which they could never hope to occupy) than that it should not be used as a harboring-place for their escaping slaves. The differentiation of political opinions between the Northern and the Southern States at that time, so far as they were influenced by slavery, seems to have been based rather on the economical than on the social or purely political aspects of the institution.

If the States'-rights conflict over the public lands was composed for a time by the Ordinance of 1787, the truce was only temporary. The debatable region north of the Ohio River was taken forever out of the doubtful wager of battle between the two sections of the Union, but the wager of battle which had come to a standstill in the Continental Congress did but wave its red flag only the more violently in the eyes of the Federal Convention which was then sitting within its closed doors at Philadelphia. After the crisis between the competing claims of the small States and of the large States, the crisis between the competing claims of the planting States and the commercial States, the crisis between the States opposed to the continuance of the slave-trade and the States favoring it or winking at it—after all these crises had been successfully passed, the Convention stumbled on the old rock of offence lying between the "landed" and the "landless" States. Whether the vast public territory then belonging to the Union had been surrendered (in the eye of constitutional and public law) by the States separately ceding it, or by Great Britain in her Treaty of Peace with its definition of the metes and bounds of the United States, was still an open question between the two classes of States so differently related to the public domain.

The Land Question had gathered head from a variety of causes. Mr. Madison, in his notes of the debates held in the Continental Congress in the early part of the year 1783, when peace with Great Britain was in sight, explains how the

States'-rights conflict over the public lands, even at that early date, when Virginia had not completed her cession, was complicated with the abortive attempt of Congress to enucleate a fiscal policy for the whole country.<sup>1</sup> It was complicated besides with Federal relations of debit and credit at this period, when each State was prone to conceive itself a creditor as compared with its sister States, and when the Eastern States were especially convinced that they were creditors as compared with the Southern States. It was complicated, besides, with dynastic competitions arising between the old States and the foreseen new States, which were destined to be parcelled out from the Northwestern and Southwestern territory—a species of jealousy which grew more and more venomous as the prospect of such States loomed more and more clearly above the political horizon in 1788. It was complicated, besides, with preferences for conflicting land systems—with the New England preference for a township system, and with the Southern preference for indiscriminate locations.<sup>2</sup>

Such was the tangled political embroglio which the Federal Convention was called to unravel when, in the course of its deliberations, provision had to be made for the admission of new States and for the government of the Federal territory under the Constitution. The dissidence came at once to a sharp and sheer division of opinions. Daniel Carroll, of Maryland, true to the settled policy of his State, wanted an express provision in the Constitution declaring that nothing in that instrument should affect the right of the United States to the "back lands." He would like to have this provision agreed to "unanimously, but if such unanimity was impossible, he believed that "all risks would be run by a considerable minority sooner than give their concurrence." Williamson, of North Carolina, intimated that his State was well disposed to surrender her Western lands, but that she would not be coerced into it. Luther Martin, of Maryland, emphasized the unreasonableness of

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<sup>1</sup> Elliot's "Debates," Vol. V., p. 59.

<sup>2</sup> Madison's Works, Vol. I., p. 318.

forcing the people of Virginia beyond the mountains, the people west of North Carolina and of Georgia, and the people in Maine northeast of Massachusetts, to continue under the States now governing them. He was unwilling that the small States should be called to guarantee the Western claims of the large ones. Gouverneur Morris expressed the opinion that if the forced division of the large States was to be the object of the new system of government, it might be expected that the gentlemen from the large States would "pretty quickly leave" the Convention. Luther Martin, in turn, expressed the opinion that if the small States were expected to guarantee the territorial claims of the large States, it would be found that the representatives of the former would, with equal firmness, take their leave of the document then lying unfinished on the table of the Convention. Mr. Wilson, of Pennsylvania, perceiving that the conflict of opinion under this head was irreconcilable, mildly proposed that nothing at all should be said on the litigated subject, either by way of affecting the claims of the several States or of the United States. Madison, too, with his mild wisdom, thought it best, on the whole, that the Constitution should be silent on the subject. So it was agreed to leave the whole matter *in statu quo*, and to remit the thorny topic to the legislative and judicial departments of the proposed new government; that they might settle, as best they could, a dispute too bitter for the Convention to allay.<sup>1</sup> For the nonce, it was found necessary to practise a policy of discretion and silence as to the point in controversy between the two classes of States differently interested in the disposition of the public lands. Such is the origin of the hesitating clauses in the Constitution which run as follows: "New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States or parts of States, without the consent of the Legislatures concerned, as well as of the Congress. The Congress shall have power to dis-

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<sup>1</sup> Elliot's "Debates," Vol. V., pp. 492-497.

pose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State."

Such was the drawn battle between the "landed" and the "landless" States in the Federal Convention of 1787. What wonder that a grant of power, which was rendered as colorless as possible to avoid giving umbrage to either of the two classes of States pitted against each other in this stage of the States'-rights conflict over the public lands, should have opened the flood-gates of controversy at a later day when a still more immitigable cause of strife had come to envenom the dispute which arose between two classes of States divided by a difference in their political rivalries because of a difference in their social institutions and economic interests? If an attempt had been made to insert in the Constitution a clear-cut definition of the respective prerogatives of the several States and of the United States in the matter of the territories and their government, we see that the Convention would have probably broken up without forming any Constitution at all. Disputes between the States as to their relative weight in the government because of a difference in their size or the number of their population; because of the repugnance of some States to the representation of slaves in the popular branch of Congress and in the Electoral College; because of the repugnance of eleven States out of thirteen to the long toleration of the slave-trade; because of the reluctance of the planting States to grant to Congress the power of passing commercial laws—these disputes were all laid to rest by the compromises of the Constitution. The one spectre which would not down was the shadow of the conflict over the public lands.

The conflict adjourned from the lists of the Federal Convention was resumed in the wider lists of the States so soon as they were called to sit in judgment on the Constitution for its ratification or rejection. Men like Grayson, of Virginia, who had helped to pass the Ordinance of 1787, were

swift to oppose the adoption of the Constitution, among other reasons for the paramount reason that the Northern States had already shown a disposition to surrender the navigation of the Mississippi River, and that with the powers conceded to them under the Constitution, they would be able to effect their sinister purpose against the interests and the just political preponderance of the Southern States. It was argued that the Eastern States had adhered for a time to the right of the South and West in the navigation of the Mississippi, because it was then regarded as a balance for the Newfoundland fisheries; but now that those fisheries had been secured to the North and East by the Treaty of Peace, the States of the North and East had shown a disposition to barter away the rights of the South and West in the Mississippi valley; and it was predicted that they would proceed to execute this design so soon as they were vested with the new powers granted by the Constitution. If the Mississippi River be shut up, immigration, it was urged, would be stopped entirely. There would be no new States formed on the Western waters. The new government would be a government of the seven Northern States. The contest for the Mississippi involved, therefore, "a great national contest"; that is, whether one part of the continent should govern the other. The Northern States had the majority, and would endeavor to retain it. "This was therefore a contest for dominion, for empire."<sup>1</sup>

It will thus be seen that the States'-rights conflict over the public lands imperilled the ratification of the Constitution by the powerful State of Virginia. What weight the same argument had in postponing the ratification of the instrument by the State of North Carolina is matter of recorded history in the debates of her Convention and in the closing pages of the Secret Journal of the Continental Congress in 1788.<sup>2</sup>

After the Constitution had been adopted it cannot surprise us to find that the first great issue ever joined between

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<sup>1</sup> Elliot's "Debates," Vol. III., p. 365.

<sup>2</sup> Secret Journals of Congress, Vol. IV., p. 453.

the jurisdictional rights of a State and of the United States should have arisen on a question of the public lands. The subject-matter of this controversy was the famous Indiana tract, which fills such a conspicuous space in the transactions of the Continental Congress. Virginia, by a formal act of her General Assembly, had declared in 1779 that the claim of the Indiana Company to certain lands "between the Alleghany Mountains and the river Ohio, above the mouth of the Little Kanawha Creek," was utterly void, and of no effect. After the Constitution had created a tribunal for the trial of controversies "between a State and citizens of another State," the Indiana Land Company brought a suit in the Supreme Court of the United States for the vindication of their alleged rights as nullified by the act of the Virginia Legislature. Thereupon the Virginia Legislature, in December, 1792, solemnly declared that the decision made by the State previous to the adoption of the Constitution could not be called in question by any other than the General Assembly of the Commonwealth "without a dangerous and unconstitutional assumption of power"; that the jurisdiction of the Supreme Court of the United States could not extend to a case which had been already decided by a competent tribunal; and, finally, that the State could not be made a defendant in the Supreme Court at the suit of any individual or individuals.<sup>1</sup>

As was to be expected, the ill-defined form of words, contrived by the framers of the Constitution for the purpose of slurring over an irreconcilable discordancy, became a source of chronic dissension in Congress, as well as of early appeal to the Supreme Court. The antithesis between the "landed" and the "landless" States in the Federal Convention passed, under the Constitution, into an antithesis between the Northern and the Southern States. At first the conflict purported to be based on economical distinctions, of which slavery was recognized to be the implicit cause. In the year 1820 the implicit cause became explicit in the

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<sup>1</sup> The subsequent stages of this States'-rights controversy may be traced in Conway's "Omitted Chapters of History," pp. 101, 102, 168-173.

terms of the Missouri Compromise line. In 1861 the States'-rights conflict over the public lands, considered as the source and symbol of political power in the Federal Union, passed from the forum of politics into the battle-fields of civil war. The successive stages of this conflict in the halls of Congress, from 1790 to 1860, will be discussed in a separate chapter.

## THE MARTYRDOM OF SAN PEDRO ARBUÉS





## THE MARTYRDOM OF SAN PEDRO ARBUÉS.

BY HENRY CHARLES LEA.

It is well known that when Ferdinand of Aragon procured from Sixtus IV. the bull of October 17, 1483, extending over his ancestral territories of Aragon, Catalonia, and Valencia, the powers of his inquisitor-general Torquemada, his project met with considerable resistance. During the preceding three years the New Inquisition had been introduced throughout Castile, virtually without opposition, although there was considerable popular repugnance both to its methods and its results, but in Aragon the case was different, notwithstanding that for nearly two centuries and a half there had been an Inquisition permanently established there. This had, however, always been inert, and during the last century had given few manifestations of its existence.

The immediate cause for the organization of the Spanish Inquisition was the enormous number of converted Jews—*conversos* as they were habitually called—who had sought baptism under the pressure of the terrible massacres of 1391, seconded by the missionary labors of San Vicente Ferrer, and the inhuman repressive legislation of the fifteenth century. Converted in droves, there could be little real firmness of faith among the conversos or their immediate descendants, and they were everywhere suspected, with more or less justice, of secretly leaning to their old religion. At the same time conversion had opened a new and brilliant career to them. Relieved from the disabilities which oppressed so heavily their unconverted brethren, the keen intellects and superior business capacity of the New

Christians speedily won for them commanding influence. They rose to the loftiest stations in Church and State, they accumulated enormous wealth, and they intermarried into the noblest families.<sup>1</sup> The hatred which had formerly been concentrated upon their religion was developed through jealousy into an antagonism of race, for which their presumable Judaizing tendencies gave colorable excuse. The demand for the suppression of these aberrations from the faith grew stronger as the years passed away, until, after trying various less radical expedients, Queen Isabella was convinced that serious detriment to religion could only be averted by the establishment of the Inquisition, and the dread tribunal commenced its functions in Seville in January, 1481. The number of its victims speedily satisfied the faithful of the extent of the evil to be overcome and carried the conviction of impending ruin to all the conversos of Spain.

They were as numerous and as powerful in Aragon as in Castile. They occupied important posts in the municipal organizations of the cities, in the courts, in the administrative departments of the government and in the churches. Through matrimonial alliances they were connected with many of the most illustrious families, and they had friends in every quarter. They had behind them, moreover, the jealousy which Aragon felt of Castile, and its strenuous determination to uphold its ancient rights and liberties. The institutions of Aragon had not undergone the dissolving process of the anarchy which had afflicted Castile and had enabled the strong wills of Ferdinand and Isabella to lay the foundation of an absolute monarchy. Although the tyrannical reigns of Ferdinand of Antiquera and his descendants had somewhat abridged Aragonese independence,

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<sup>1</sup> About 1560, Cardinal Mendoza y Bobadilla presented to Philip II. a memorial in which he showed that virtually the whole nobility of Castile and Aragon was contaminated with Jewish blood. It is full of curious details of family history most unpleasing to family pride, and richly deserved the name which it obtained of *Tison de la Noblesa*, or Blot on the Nobility. My copy is in MS. and I believe that it has never been printed.

much yet remained, and it was not till a century later that the revolt engineered by Antonio Perez to break his fall enabled Philip II. to develop the royal prerogative. The Aragonese could only view with bitter disfavor the extension of Torquemada's jurisdiction over them and the reduction of their land to the position of a spiritual province of Castile, while there was still enough left of the old constitution to render it necessary for Ferdinand to reckon with them.

No effort, therefore, was made to put into execution the bull of October, 1483, until it could, after some fashion, be done with the consent of the kingdom. The national Cortes were convoked to meet at Tarazona, January 15, 1484; Ferdinand and Isabella arrived there on the 19th, and remained until May 1st. Then the opening of the campaign against Granada required their presence elsewhere, and Ferdinand left as his representative his natural son, Alfonso de Aragon, Archbishop of Saragossa, with a commission for eighteen months as lieutenant of the kingdom. Torquemada had accompanied the sovereigns; the royal influence was brought to bear, and after considerable discussion an understanding was reached on April 14th.<sup>1</sup> Torquemada's first official act recorded is his appointment, on May 4th, as inquisitors for Aragon, of Fray Gaspar Juglar, a Dominican, and Pedro Arbués, a canon of Saragossa, commonly known as Master Epila, and for Valencia, of a monk named Juan de Epila and Martin Iñigo. Thus the vehemence of Torquemada and the fixed resolve of Ferdinand had borne down opposition; the tribunal was established, although informally, and it set to work without delay. In fact, Torquemada must already have been exercising his functions and trying cases, for on May 10th an auto de fé was held, in which four persons were penanced and sentenced to suffer confiscation; it was presided over by a Dominican inquisitor, Master Julian, who then disappears from view, poisoned by the conversos, it is said, with

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<sup>1</sup> Zurita, *Añales de Aragon*, Lib. xx. c. 56, 65.

some *rosquillas*, or sweet cakes.<sup>1</sup> In less than a month, on June 3d, there was another auto, held in the courtyard of the archiepiscopal palace; this time it was not bloodless, for two men were executed and a fugitive woman was burned in effigy.<sup>2</sup>

No more autos were held in Saragossa for eighteen months. The people of Aragon had apparently been taken by surprise, and had permitted the establishment of the tribunal, but as they came to realize its working—the frequent arrests and the trials, the uncertainty and fear which hung over the population in which Jewish blood was so largely mingled—there arose an opposition which called a halt, and Arbués never celebrated another auto, at least in Saragossa. Not only the conversos, but many of the old Christians denounced the Inquisition as an invasion of the liberties of the land, especially in the secrecy of its proceedings and the confiscation of the estates of those condemned. Yet these were traditional features of inquisitorial proceedings everywhere, and it shows how obsolete the old Inquisition had become that they were now regarded as novelties. So many conversos were lawyers, judges, and high officials that they had abundant opportunity to impede the action of the tribunal by obtaining injunctions and decisions of the courts as to confiscations, which they

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<sup>1</sup> I am inclined to think that the name of Master Julian may be the error of a copyist for Torquemada's appointee, Gaspar Juglar, of whom nothing further is heard; in the conspiracy against San Pedro Arbués he is not alluded to as an object of vengeance.

My authority with regard to Master Julian is a MS. "*Memoria de diversos Autos de Inquisicion celebrados en Çaragoça desde el año 1484 asta el de 1502.*" It is in a handwriting apparently of the eighteenth century—probably a copy of a document contemporary with the events. The record it presents bears on its face every mark of authenticity, and although there are occasional discrepancies of names and dates between it and the list at the end of the *Libro Verde de Aragon*, in general they correspond, as it also does with such trials of the period as I have examined from the Llorente MSS. in the Bibliothèque Nationale de France.

<sup>2</sup> MS. *Memoria de diversos Autos*. The list in the *Libro Verde* mentions no executions in 1484, but Trasmiera (*Vida y muerte de Pedro Arbués*, Madrid, 1664, p. 60) credits Arbués with two autos of 1484, one in May and one in June.

regarded as the most assailable point of attack, believing that if these could be stopped the whole business would perish of inanition.<sup>1</sup>

The most effective way of overcoming this opposition appeared to be by forcing individually all who held public office to pledge obedience. On September 19th, the royal and local officials were assembled, and a solemn oath was administered to them to maintain inviolably the Holy Roman Catholic faith, to employ all their energies against every one, of whatever degree, who was a heretic or suspect of heresy, or a favorer of heretics, to denounce any one whom they knew to be guilty, and moreover to appoint no one to office who was suspect in the faith. The principal nobles were then required to take the oath, and it was gradually administered to all the different estates of the realm. In November, Torquemada held an assembly of inquisitors at Seville, where rules for the conduct of the Inquisition were adopted, and these were promptly sent to Saragossa, together with appointments for all the different officials necessary for the organization of the tribunal. It was thus fully furnished, and quarters were allotted to it in some houses between the cathedral and the archiepiscopal palace, convenient to the ecclesiastical gaol.<sup>2</sup>

In spite of oath-taking, the agitation grew stronger. The rich conversos promised large sums to Ferdinand and Isabella if they would forego the confiscations, and they labored especially with the latter, whom they regarded as peculiarly under the influence of Torquemada. A heavy contribution was also offered to the papal court, and the lieutenant of justice in Aragon, Tristran de la Porta, was vainly urged to prohibit the Inquisition altogether. So universal became the opposition that the Four Estates of the kingdom were called together; the cause was held to be one which affected the liberties of the land, and a solemn embassy was sent to Ferdinand in the name of the kingdom. The inquisitors, who had recently met with a check

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<sup>1</sup> Zurita, Lib. xx. c. 65.—Paramo de Orig. Officii S. Inquisit., pp. 180-1.

<sup>2</sup> Zurita, Lib. xx. c. 65.

at Teruel, where the people would not allow them to open their tribunal, held a meeting at Celha, whence they doubtless sent representations to the court as to the dangers impending over the faith. The answer of Ferdinand, in February, 1485, was unwavering, and the Inquisition, assured of royal support, commenced to work with fresh vigor, arresting suspected persons and pushing the trials energetically.<sup>1</sup>

The conversos were desperate. All legitimate means of averting destruction had failed, and the bolder spirits began to whisper that the only resource remaining was to kill an inquisitor or two, when the warning would prevent others from exposing themselves to the hazard. They might well feel that the suspense of impending doom was unbearable, for secret inquiries were on foot respecting them all, and every man, whether innocent or guilty, was at the mercy of the evil disposed, for the names of informers and witnesses were kept rigidly secret, and malignity had a safe opportunity for gratification. Sancho de Paternoy, the Maestre Racional of Aragon, who was compromised in the conspiracy, when on trial confessed to enmity towards Juan de Anchías, the notary of the Inquisition, because the latter had inquired of a Jewish tailor whether Paternoy had a seat in the Synagogue, showing how every source of secret information was exploited to obtain evidence against prominent conversos.<sup>2</sup> In fact, it seems to have been a current saying that Arbués was ready to pay for satisfactory testimony.<sup>3</sup> The friends of the conversos in the royal court, moreover, chief among whom was Ferdinand's treasurer, Gabriel Sanchez, himself a converso, on being apprized of the design, approved of it, and wrote to them that if they would kill an inquisitor, it would put an end to the Inquisition.<sup>4</sup>

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<sup>1</sup> Zurita, Lib. xx. c. 65.

<sup>2</sup> Libro Verde de Aragon, fol. 67. This trial of Paternoy is omitted from the Libro Verde as published in the *Revista de España*, by Señor Rodrigo Amador de los Rios, but a transcript of it was kindly furnished to me many years since by his father, Don José Amador de los Rios.

<sup>3</sup> MSS. Bib. Nat. de France, fonds espagnol, T. 80, fol. 4.

<sup>4</sup> Libro Verde de Aragon (*Revista de España*, CVI., 281-2).

At first the intention was to include in the slaughter not only Pedro Arbués but his assessor Martín de la Raga, and Micer Pedro Frances, and a plot was laid to drown the assessor while he was walking by the Ebro, but he chanced to be accompanied by two gentlemen and it failed.<sup>1</sup> The whole attention of the conspirators was then directed to making way with Arbués. Master Epila was not a man of any special note, though his selection by Torquemada to fasten the Inquisition on recalcitrant Aragon shows that he must have acquired a reputation for dauntless firmness, and we are told that he was an eloquent preacher. Born in 1441, he had in 1468 obtained a fellowship in the Spanish college at Bologna founded by Cardinal Albornoz, and in 1473 he attained the doctorate of theology. The next year he was elected canon in the cathedral of Saragossa, where he returned in 1476. We may readily believe the assertion that he refused for some time the position offered him by Torquemada, for though it was a promising avenue to high preferment, the labor which it involved threatened to be hard and perilous.<sup>2</sup> His reluctance was overcome, and we have seen how energetically he commenced his new career, yet the interruptions which he experienced had prevented him from accomplishing much, and he fell a victim not to revenge but to fear.<sup>3</sup>

The conspiracy was long in hatching and the secret was wonderfully well kept, considering that correspondence concerning it was extensive. For six months meetings were held for consultation, sometimes in the houses of conspirators and sometimes in the churches. It was agreed to raise a sum of money with which to hire assassins, and three treasurers of the fund were appointed. Juan de Esperandeu, a currier, known as a desperate man, whose father had been

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<sup>1</sup> Zurita, Lib. xx. c. 65.

<sup>2</sup> Trasmiera, Vida de Pedro Arbués, pp. 15, 32, 50.

<sup>3</sup> Kaulbach's celebrated picture of Arbués, condemning to death a family of heretics, including father and mother son and daughter, is purely imaginative symbolism and not history, for Arbués never had a chance to commit wholesale slaughter, however much his zeal might have prompted him to it. If his portraits in Trasmiera's book be authentic, his features were by no means harsh or stern.



arrested, undertook to find the assassins and hired Juan de la Badía for the purpose. In April or May, 1485, an attempt was made on the house of the inquisitor, but the conspirators were frightened off and the matter was postponed for several months. It was then determined to kill him at matins in the cathedral, and watch was kept for three or four nights without success. At length, on the night of September 15th, Esperandeu went to la Badía's house, and awakened him; they returned to Esperandeu's house where they found the latter's servant, Vidau Durango, a Frenchman, Mateo Ram, one of the chiefs of the plot, his squire Tristanico Leonis, and three others who wore masks and remained unidentified. Together they went to the cathedral and entered by the chapter door, which was open on account of the service of matins. Arbués was kneeling in prayer between the high altar and the choir where the canons were chanting; he knew that his life was in danger, for he wore a coat of mail and a steel cap, and a lance which he carried was leaning against a pillar. La Badía whispered to Durango: "There he is, give it to him!" Durango stole up behind him, and with a back-stroke, clove his neck, between his armor, from the nape through to the beard. He rose and staggered towards the choir, when la Badía followed him with a sword-thrust which pierced his arm, and Mateo Ram is said to have thrust him through the body. He fell, the assassins hurried away, and the canons, alarmed at the noise, rushed from the choir and carried him to his house adjoining the cathedral, where surgeons were summoned who pronounced the wounds mortal. He lay for twenty-four hours, repeating, as we are told, pious ejaculations, and died September 17th, between one and two in the morning. Miracles at once attested his sanctity. The holy bell of Villila tolled on the night of the murder without human hands, breaking the bull's pizzle with which the clapper was secured; his blood, which stained the tiles of the cathedral, after drying for two days, suddenly liquefied and welled forth, so that crowds came to dip in it cloths and scapulars, and had to be driven off when he was

buried on the spot where he fell; when the conspirators were interrogated before the inquisitors, their mouths turned black and their tongues became parched so that they were unable to speak until water was given to them. Another miracle, wrought by his intercession, as we are assured by Juan de Anchías, the zealous notary of the Inquisition, was that the trials of the assassins led to the discovery of countless heretics who were duly penanced or burnt.<sup>1</sup> Pecuniarily, the affair had not been costly; the whole expense had been only six hundred florins, of which one hundred and fifty were to be paid to the assassin.<sup>2</sup>

The short-sighted crime, of course, worked only for the benefit of those whom it was intended to destroy. Its immediate effect was to cause a revulsion of popular feeling which had been so markedly hostile to the Inquisition. The news of the assassination spread with marvellous rapidity through the city, and before dawn the streets were filled with excited crowds, shouting: "Burn the conversos who have slain the inquisitor!" and there was danger that in the exaltation of feeling not only the conversos would be massacred, but the Jewish and Moorish quarters would be sacked. By daylight the Archbishop, Alfonso de Aragon, mounted his horse and traversed the streets, calming the mob with promises of speedy justice. A meeting was at once called in the Diputación, or House of Deputies, of all the chief personages in the city, which resolved itself into a national assembly, and empowered all ecclesiastical and secular officials to proceed against every one inculpated with all rigor and without observing the *fueros* and customs of the land.<sup>3</sup> For some days the conversos continued to flatter themselves that with money they could disarm the wrath of Ferdinand and Isabella; they had, they said, the

<sup>1</sup> Libro Verde de Aragon (*Revista de España*, CVI., pp. 281-6, 288).—Zurita, Lib. xx. c. 65.—MS. Memoria de diversos Autos.

Brianda de Bardaxí, when accused before the Inquisition of expressing joy at the death of Arbués, proved in her defence that she had had a cloth dipped in the miraculous blood and preserved it as a relic of the martyr.—MSS. Bib. Nat. de France, fonds espagnol, T. 80, fol. 33.

<sup>2</sup> MS. Memoria de diversos Autos.

<sup>3</sup> Zurita, Lib. xx. c. 65.

whole court with them, and the sympathy of all the magnates of the kingdom,<sup>1</sup> but they miscalculated Ferdinand's shrewd resolve to profit to the utmost by the affair, and the consequent weakness of their friends. The royal anger was in fact much dreaded, and a few days later the deputies wrote to the king reporting what had been done. The criminals had already scattered in flight; the judges had written to foreign lands for aid in intercepting the fugitives, and both city and kingdom would willingly undergo all labor and expenses necessary to avenge the crime.<sup>2</sup> A proclamation was also issued excommunicating all those who, having knowledge of the conspiracy, should not within a given time come forward and reveal what they knew.<sup>3</sup>

It was probably in consequence of the murder that Ferdinand and Isabella succeeded in obtaining from Innocent VIII. a bull of April 3, 1487, ordering all princes and rulers to seize and deliver to the Inquisition of Spain, all fugitives who should be designated to them, thus extending the arms of the Holy Office throughout the whole of Christendom, and practically outlawing all refugees. Fortunately, however, the cruel order received no obedience, and the jurisdiction of the Spanish Inquisition was restricted to Spanish territory.<sup>4</sup> As regards the assassins, when they crossed the frontier, they were safe, as a rule, though there are one or two cases of cooperation by the Inquisition of Toulouse. Gaspar de Santa Cruz, for instance, one of the leaders of the conspiracy, fled to Toulouse and died there. He was condemned and burnt in effigy at Saragossa, July 28, 1486. His son, Geronimo, had accompanied him in his flight, and was ordered in penance to take his father's sentence to Toulouse, to disinter the body and bring a certificate of the fact from the Toulousan Inquisition, all of which was duly performed.<sup>5</sup>

At home, nothing was left undone to exploit the affair to the utmost, and prominent among the means appropriate

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<sup>1</sup> MS. Memoria de diversos Autos.

<sup>2</sup> Gams, *Zur geschichte der spanischen Staatsinquisition*, p. 34.

<sup>3</sup> MSS. Bib. Nat. de France, fonds espagnol, T. 8r.

<sup>4</sup> Llorente, *Histoire Critique*, I., 263.

<sup>5</sup> MS. Memoria de diversos Autos, Auto 11.

for this was the stimulation of popular veneration for Arbúés as a martyr. On September 29, 1486, his solemn exequies were celebrated with as much magnificence as those of the holiest saint; a splendid tomb was built, to which his remains were translated with much pomp, December 8, 1487; a statue was erected to him with an inscription by Ferdinand and Isabella, and over it a bas-relief representing the assassination. During a pestilence, in 1490, the city ordered a silver lamp of fifty ounces placed before the tomb, and another silver lamp to burn day and night.<sup>1</sup> Notwithstanding this, there was much popular sympathy for the murderers. The city of Tudela gave refuge to some of the principals and enabled them to escape to Navarre, for which, in a letter of May 4, 1486, Ferdinand threatened the citizens as defenders of heresy, and forced them to submit to the Inquisition of Saragossa<sup>2</sup>; and, in addition to this, the alcaide, Pedro Gomez, and eight of the leading citizens were tried for the offence and underwent public penance in the *auto de fé* of March 2, 1488.<sup>3</sup> The same party of fugitives were harbored, for the consideration of sixty florins, by the Señor of Cadreyta, Jayme Dias de Almundariz, an ancestor of the Dukes of Alburquerque, for which he was similarly penanced.<sup>4</sup> In fact, some of the most illustrious nobles of the kingdom were prosecuted and punished by the Inquisition for the same offence—the Infante Jayme of Navarre, Lope Ximenes de Urrea, count of Aranda, Blasco de Alagon, lord of Sástago, Lope de Rebolledo, lord of Monclus, Pedro Jordano de Urries, lord of Ayerbe, Luis Gonzalez, royal secretary, Alonso de la Caballería, vice-chancellor of Aragon, Felipe de Clemente, prothonotary of Aragon, Gabriel Sanchez, royal treasurer, Fernando de Toledo, penitentiary of Saragossa, Luis de la Caballería, canon and chamberlain of the cathedral, and many other notables of Church and State.<sup>5</sup> The narrow escape made

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<sup>1</sup> Zurita, Lib. xx. c. 65; Llorente, I., 192-4; Trasmiera, p. 101.

<sup>2</sup> Amador de los Rios, *Historia de los Judíos de España*, III., 269.

<sup>3</sup> MS. Memoria de diversos Autos, Auto 29.

<sup>4</sup> MS. Memoria de diversos Autos, Auto 27.

<sup>5</sup> Llorente, I., 204-6.

by Juan de Pedro Sanchez, one of the contrivers of the plot, illustrates the prevalence of this sympathy. He found refuge in Toulouse, where he was recognized by some Aragonese students, who procured his arrest. They at once dispatched their servants with letters to the inquisitors of Saragossa; the messengers chanced to put up at the house of a notary, Juan de Fatas and his brother Pedro Augustin, who obtained possession of the letters, opened them, and communicated their purport to Mossen Guillen Sanchez, brother of the prisoner. The three, with Bernardo Bernardi and Pedro Celdrion, forthwith wrote to the students and to friends at Toulouse to release Juan Sanchez, and effected it; meanwhile they had delivered the letters to the inquisitors, and when the latter sent to Toulouse, the bird had flown. The five who were concerned were mercifully treated in being penanced in the auto of May 6, 1487, fined a thousand florins apiece and the expenses, together with deprivation of their offices.<sup>1</sup>

In spite of this practical sympathy, the conspirators were woefully in error when they imagined that the death of their victim would deter others from taking his place. There was no danger for inquisitors now in Aragon; and Torquemada promptly dispatched Fray Pedro de Monte Rubio, Prior of the Ladies of St. Dominic in Castile, to take charge of the Inquisition, and to prosecute the assassins.<sup>2</sup> He was speedily at work, and by December 20th he celebrated an auto, in which a man and a woman were burnt.<sup>3</sup> After this we lose sight of him for a time, and the post was filled by Fray Juan de Colivera, a Dominican, Juan de Colmenares, Cistercian abbot of Aguilar, and Master Alonso de Alarcon, canon of Palencia. The Inquisition was removed to the royal palace, known as the Aljafería, as an evidence that it was under the royal safe-

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<sup>1</sup> MS. Memoria de diversos Autos, Auto 22.

<sup>2</sup> Libro Verde (*Revista de España*, CVI., 288). He is called Fray Miguel de Monte Rubio in trials held at Saragossa, in 1491 and 1492 (MSS. Bib. Nat. de France, fonds espagnol, T. 81). The auto of March 15, 1487, was held by a Maestro Miguel, who is presumably the same (MS. Memoria de diversos Autos).

<sup>3</sup> MS. Memoria de diversos Autos, Auto 3.

guard, and Ferdinand proclaimed that he and his successors took it under their special protection.<sup>1</sup>

Pursuit was hot after the murderers, and the avengers were soon on their track. Although both secular and ecclesiastical courts were empowered by decree to punish the conspirators, the affair seems to have been left entirely to the Inquisition, and its action illustrates a characteristic difference between it and its mediæval predecessor. When St. Peter Martyr was murdered by heretics in 1252, although his assassins were caught and tried, not one was put to death; on profession of repentance and conversion they were admitted to penance, and were utilized much more advantageously than by shedding their blood. In the present case, the policy pursued was wholly different. Vidau Durango was soon caught at Lerida, and made no difficulty in revealing the details of the plot and the names of the accomplices. The work of retribution followed and continued for years. The first execution took place in the auto of June 30, 1486, when Juan de Pedro Sanchez was burnt in effigy; Vidau Durango, whose communicativeness had earned some claims for mercy, had his hands cut off, and it was not until he was dead that he was dragged to the market-place and quartered, the fragments being hung up in the streets, and the dissevered hands nailed to the door of the Diputacion, or House of Deputies. Juan de Esperandeu was more harshly treated. He was dragged while alive to the great portal of the cathedral, where his hands were cut off; he was then dragged to the market-place, where he was beheaded and quartered, and his members shared the same fate as those of Durango.<sup>2</sup> On July 28th, Gaspar de Santa Cruz and Martín de Santangel were burnt in effigy; and Pedro de Exea, who had contributed to the fund, was burnt alive. On October 21st, María de la Badía was burnt as an accessory. On December 15th, an auto was hastily arranged. Francisco de Santa Fé, assessor of the Governor of Aragon, and one of the leading conversos of the kingdom, was fatally compromised in the conspiracy;

<sup>1</sup> Zurita, Lib. xx. c. 65.

<sup>2</sup> MS. Memoria de diversos Autos, Auto 10.

hopeless of escape, in the early morning, he threw himself from the battlements of the tower in which he was confined, and was dashed to pieces; on the same day an auto was celebrated, his remains were burnt, and his bones, enclosed in a box, were cast into the Tagus, as though it was feared that they would be revered as those of a martyr. Juan de la Badía eluded his tormentors in yet more desperate fashion. An auto was arranged for January 21, 1487, in which he was to suffer; in his cell, the day before, he broke in pieces a glass lamp and swallowed the fragments, which speedily brought the death he craved; the next day his body was dragged and quartered, and the hands cut off, and at the same auto there were burnt in effigy as accomplices the fugitives Pedro de Almazan the elder, Anton Perez, and Pedro de Vera. On March 15th, Mateo Ram, who superintended the murder, had his hands cut off, and was then burned, with Juan Frances, who was suspected of complicity, and the effigies of three fugitives, Juan Ram, Alonso Sanchez, and García de Moros.<sup>1</sup>

Thus the ghastly tragedy went on for years, as the ramifications of the conspiracy were explored and new victims were denounced by the accused. It was not until 1488 that Juan de la Caballería was placed on trial, on the evidence of the wife of Gaspar de la Caballería that her husband told her Juan had offered him five hundred florins to kill the inquisitor. Juan admitted having heard from Juan de Pedro Sanchez that there was a fund for the purpose, and that he had mentioned it to Gaspar, but concluded that Gaspar had not resolution enough for the deed. His trial was prolonged; he died in gaol in 1490, and his body was burned in the auto of July 8, 1491, while Gaspar was penanced in that of September 8, 1492.<sup>2</sup> At this latter auto, Sancho de Paternoy, Maestre Racional of Aragon, was condemned to perpetual imprisonment. His trial had been a prolonged one; he had been repeatedly tortured, and had confessed privy to the murder, and had then retracted wholly, saying that he knew

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<sup>1</sup> MS. Memoria de diversos Autos, Autos 11, 14, 16, 18, 20.

<sup>2</sup> MSS. Bib. Nat. de France, fonds espagnol, T. 81. MS. Memoria, Autos 43, 45.

nothing about it, and that he had spent the night of the assassination at the palace of the archbishop. His guilt was not clear; he had powerful friends, especially Gabriel Sanchez, Ferdinand's treasurer, and he escaped with perpetual imprisonment, for the suspicion of being concerned in the matter.<sup>1</sup>

Any expression of satisfaction at the murder was an offence to be dearly expiated. Among the crimes for which Pedro Sanchez was burned, May 2, 1489, was this.<sup>2</sup> It was one of the chief accusations brought against Brianda de Bardaxí, but though she admitted it under torture, she retracted it afterwards; nothing could positively be proved against her, and she was let off with a fine of one third of her property and temporary imprisonment.<sup>3</sup> The assassination placed all Aragon at the mercy of the Inquisition, and it did its work thoroughly.

It is impossible to reconstruct a full catalogue of the victims. Anchías, the notary of the Inquisition, in his detailed account of the affair, only enumerates as put to death in person or in effigy three treasurers of the fund raised for the purpose, five assassins, and four accomplices, beside Sancho de Paternoy and Alonso de Alagon, who escaped with imprisonment through the influence of their friends.<sup>4</sup> The indications in the MS. "*Memoria de diversos Autos*" are unfortunately not complete, as, after May, 1489, the crimes of the victims are not specified, but so far as it goes, and comparing it with the *Libro Verde* and other sources, I find nine executed in person, beside two suicides, thirteen burned in effigy, and four penanced for complicity in the crime. Besides, there are two persons penanced for suborning false testimony in favor of Mossen Luis de Santangel (who was burnt August 18, 1487), two for rejoicing at the murder, and seventeen for aiding or sheltering the guilty, in addition to a considerable list enumerated by Llorente. Altogether it is probable that about a hundred may have

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<sup>1</sup> *Libro Verde (Revista de España, CVI., 287, 589). Ib. MS., fol. 65-74.*

<sup>2</sup> MS. *Memoria*, Auto 36.

<sup>3</sup> MS. Bib. Nat. de France, fonds espagnol, T. 80.

<sup>4</sup> *Libro Verde (Revista de España, CVI., 287).*



suffered in various ways, from death to penances more or less severe.<sup>1</sup>

The canonization of San Pedro Arbués offers a significant contrast to that of St. Peter Martyr, who was enrolled in the catalogue of saints in less than a year after his assassination. In spite of the miracles which accompanied the death of Arbués, and of innumerable subsequent ones which attested his sanctity, the papacy was by no means disposed to recognize him as a saint. The Holy See was at the time involved in contests with the Spanish Inquisition over questions of appeals, and it was gradually excluded from all supervision and control, which presumably may account for its indisposition to bear testimony to the merits of the martyr. There must have been some jealousy at work to enable the kindred of the assassins to obtain from the curia an order for the removal from the cathedral of the "insignias y mantetas" of the guilty—the scrolls bearing their names, their crimes, and their punishment, the exposure of which to public view in the churches was part of the routine of the Inquisition, and an infliction keenly felt by the families of the convicts. It required strenuous efforts to obtain permission to let them remain.<sup>2</sup> So strong was the feeling

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<sup>1</sup> Llorente undoubtedly exaggerates when he says that the executions numbered more than two hundred (*Histoire critique*, I., 204-6). Amador de los Rios is similarly mistaken in saying (*Hist. de los Judíos*, III. 266) that the greater part of those who suffered in the autos at Saragossa from 1486 to 1492 were concerned in the affair. The abstracts of sentences given in the MS. *Memoria* show that comparatively few of these had any thing to do with it.

<sup>2</sup> *Libro Verde* (*Revista de España*, CVI., 288). They are still to be seen in the cathedral, after three centuries have passed away (Amador de los Rios, III., 266), and the swords of the assassins still hang on the pillars near the entrance of the chancel (Vicente de la Fuente, in Oviedo's *Quinquagenas*, I., 73). Oviedo himself states that he had seen the withered hands of the murderers still attached to the door of the Diputacion, and he tells the story of a lady of his acquaintance whose father and mother had been burned as accomplices in the murder. She accompanied Catharine of Aragon to England as maid of honor, and one day while flirting with a gentleman of the court she several times called him "un frio." Losing patience he retorted that at least she could not sing the song "dese mal murio mi madro." At this brutal reminder of the horrors through which she had passed she burst into tears, and was obliged abruptly to leave the royal circle (*Quinquagenas*, I., 72-3).

excited that Martín García, Bishop of Barcelona and Inquisitor of Saragossa, who had participated actively in the trials, pronounced the papal bull to be obreptitious, and inflicted on it the indignity of placing it on the tomb with the sanbenitos of the assassins.<sup>1</sup>

This was not calculated to placate the Holy See, and the effort to obtain the canonization of Arbués was endless. In 1537, at the request of the all-powerful Charles V., Paul III. at last ordered informations to be taken, when many miracles were put on record, but nothing was concluded. In 1604 another attempt was made, with no result, except to swell the list of authentic marvels wrought by his intercession. At the instance of Philip III., in 1615, Paul V. had another investigation commenced, and yet another in 1618. Again, in 1622, Gregory XV. yielded to the united requests of Philip IV., of the Inquisition, of the city and church of Saragossa, and of the Cofradia de San Pedro Martyr for another inquest. In 1652 the matter was again agitated by renewed demands from the same sources; the case dragged on, until, in 1663, the Congregation of Rites announced that, after mature discussion, the martyrdom and miracles were approved, and that in due time the canonization might be safely proceeded with. Alexander VII., however, without awaiting this due time, issued a brief of beatification April 17, 1668, which permitted Arbués to be represented with the nimbus of sanctity, his relics to be exposed for veneration, but not to be carried in processions, and his office to be celebrated on September 17th in the cathedral of Saragossa, the church of Epila, and the chapels of the inquisitor-general and of the Aragonese Inquisition.<sup>2</sup> Arbués was thus admitted into the inferior order of the Blessed; this step in the process of canonization seems to have satisfied Spain for the time, and the declaration of the dignity of saintship was postponed for a couple of centuries.

<sup>1</sup> Paramo de Orig. Officii S. Inquis., p. 184.

<sup>2</sup> Trasmiera, Vida de Pedro Arbues, pp. 98, 99, 133, 137, 139. Benedict. PP. XIV. de Servorum Dei Beatificatione Lib. I., c. xxx., No. 4.—Mag. Bull. Roman. Ed. Luxemb. T. VI., 195. For the distinction between beatification and canonization the reader can consult Ferraris, Prompta Bibliotheca s. v. *Veneratio Sanctorum*, No. 11 sqq.

To the Spaniards, however, his sanctity was unquestionable, and he was commonly called San Pedro Arbués, in spite of the fact that the Holy See had thus halted half-way. It was not until the Spanish Inquisition had long been merely a matter of history that he was declared to be on a level with those kindred spirits, St. Peter Martyr and St. Giovanni Capistrano. In the efforts of Pius IX. to restore to the Church its mediæval lustre, the function of adding to the calendar of saints was not lost sight of. Archbishop Josaphat of Polocz had been beatified in 1642, and the nineteen martyrs of Gorcum in 1675. Their cases, and that of Arbués, were taken up in 1864, together with four others. García Gil, Archbishop of Saragossa, and his canons promptly presented the necessary supplication for the canonization of Arbués, pointing out that the storm which threatened the Church could best be met by the blood and triumph of the martyrs; and it is perhaps significant that two days before the issue of the syllabus of 1864, on December 6th, the relator of the cause, Cardinal Carlo Sacconi, in consistory, put the question whether the canonization of Arbués could be safely proceeded with, and the cardinals unanimously voted in the affirmative. Pius, however, postponed rendering his supreme judgment, and asked those present to pray for God's help to enlighten him. It was not until February 23, 1865, that Pius announced that the canonization could be safely carried out, and Cardinal Patrizi in publishing the decree called attention to the infinite wisdom of God which had delayed the matter until these times when the Jews were furnishing money and brains to the enemies of the Church in their ceaseless assaults. Then a long interval occurred, attributable doubtless to the rapid development of Victor Emmanuel's kingdom, until May 11, 1866, when, in a secret consistory, Pius announced that in these perilous times, when the bonds of society seem to be dissolved, he had been led to carry to the end the canonization of the two martyrs, Josaphat Kunciewicz and Pedro Arbués, and on the question being put the cardinals unanimously answered: "Placet." The struggle of Austria with Italy and Prussia during the summer of 1866 was not condu-

cive to the furtherance of the matter, and it was not until November that Pietro Giannelli, Archbishop of Sardinia, and Secretary of the Congregation of the Council, was instructed to notify, on December 8th, all the bishops throughout the world, that on June 29, 1867, the eighteenth centenary of the martyrdom of Peter and Paul, the canonization would be celebrated of Josaphat, Arbués, and the rest. The prelates were summoned to be in Rome at least one month in advance, in order to be present in the consistories in which they were to vote.<sup>1</sup>

From all the four quarters of the globe covered by the wonderful organization of the Catholic Church, the prelates assembled to the number of about two hundred and thirty. As they arrived, printed statements of the claims of the several nominees for saintship were handed to them, that they might be able to act understandingly, and in that relating to Arbués the Freemasons were enumerated with the Jews as persecutors of the Church, and it was pointed out that the inscrutable divine wisdom had resolved that, from his seat among the Blest, Arbués should rush to commence the contest with the Jews. Consistories were held on the 3d, 6th, and 12th of June, in which the merits of the saints were recited, and in the last one a vote was taken, in addition to which everyone present was required to hand in a written opinion. The result was of course unanimous, and on the 29th, in St. Peter's, magnificently decorated for the occasion, the formal canonization was celebrated with the solemn and impressive ceremonies which the Church so well knows how to organize. The venerable pontiff pronounced the sentence of canonization: "We decree and define them to be saints, and we add them to the catalogue of saints, ordering their memory to be commemorated with pious devotion every year by the Church universal."<sup>2</sup>

Thus, after a struggle which had last for nearly three centuries, the merits of the martyr of Saragossa at last received their due acknowledgment.

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<sup>1</sup> Dominici Bartolini *Commentarium Actorum Omnium Canonizationis*, etc. Romæ, 1868, T. I., pp. 17, 23, 31, 32, 62, 67, 71, 91-4.

<sup>2</sup> *Ibid.*, I., 133-9, 226-65, 491; II., 275 *sqq.*, 318.



A REPLY TO DR. STILLÉ UPON RELIGIOUS  
LIBERTY IN VIRGINIA



## A REPLY TO DR. STILLÉ UPON RELIGIOUS LIBERTY IN VIRGINIA.

BY HON. WILLIAM WIRT HENRY.

At the meeting of the Association held in this city in April, 1886, I had the honor to read a paper upon the part taken by Patrick Henry in the insertion of the principle of religious liberty into the constitutions of Virginia and the United States. After showing that religious liberty, as now understood and enjoyed in America, involved the complete separation of Church and State, which had been provided in none of the American Charters, I said that Virginia, by her Bill of Rights adopted the 12th of June, 1776, was "the first State in the history of the world to pronounce the decree of absolute divorce between Church and State, and lay as the chief corner-stone of her fabric of government the precious stone of religious liberty, which had been rejected by the builders."

In a paper read at the May meeting, 1887, Dr. Stillé has contested this claim, and insisted that this honor belongs to Pennsylvania. He claimed that her constitution, though framed after that of Virginia, stated the principle of religious liberty more fully, in fact, "in its fullest meaning and application"; while the definition of religious liberty in the Virginia Bill of Rights was "very meagre and incomplete, compared with the principle as it has been understood and practised in this country under legal sanctions during the past century." He further held that the Virginia Bill of Rights was no part of her constitution. He said: "It is to be observed that a Bill of Rights is not in itself a law, but is merely a declaration of what the law on



a given subject ought to be, when the statute concerning it shall be subsequently enacted. It does not repeal old statutes nor make new ones, and until a change is made the old law remains in force."

This statement of the force of a Bill of Rights is in direct conflict with the decisions of the Virginia Court of Appeals on the subject. The question of the force of the constitution, including the Bill of Rights, first arose in the case of *Kamper vs. Hawkins*, decided in 1793, and reported in "*Virginia Cases*," I., p. 20, etc., in which the General Court held that the Bill of Rights was a part of the constitution, and as such was the supreme law of the State, and that all statutes contrary to its provisions were null and void. I need only quote from the opinion of one of the judges, the learned St. George Tucker. At page 79 he says: "That the constitution is a rule to all departments of government may, I think, be proved by reference to a few parts of it. The Bill of Rights provides"—(He then cites secs. 8, 9, and 10, and shows that they are in force without legislation, and adds): "Art. 16 secures the free exercise of our religious duties, according to the dictates of every man's conscience; should the legislature at any future period establish any particular mode of worship and enact any penal law to support it, will the courts of this commonwealth be bound to enforce those penalties?" And he gives a negative answer.

The doctrine of the utter destruction of the regal government by the act of independence, except in the laws specially retained, is clearly laid down by the judges in this case, which has been followed since as leading authority in that State, and in all other American courts. The legislature of Virginia has also uniformly recognized the doctrine that the Bill of Rights is the supreme law of the land, rendering void all statutes in conflict. Only one instance need be cited.

An act was passed 24th January, 1799 (*Rev. Code of 1819*, Vol. I., p. 78), which reads as follows: "Whereas the Constitution of the State of Virginia hath pronounced the

government of the King of England to have been totally dissolved by the Revolution ; hath substituted in place of the civil government so dissolved a new civil government, and hath in the Bill of Rights excepted from the powers given to the substituted government the power of reviving any species of ecclesiastical or church government in lieu of that so dissolved, by referring the subject of religion to conscience ; and whereas the said several acts presently recited, do admit the church established under the regal government to have continued so subsequently to the constitution ; have bestowed property on that church, have asserted a legislative right to establish any religious sect ; and have incorporated religious sects, all of which is inconsistent with the principles of the constitution, and of religious freedom ; and manifestly tends to the re-establishment of a national church :

“ For prevention thereof, Be it enacted, that the several laws, the titles whereof are as follows : ‘ An Act for Exempting the Different Societies of Dissenters from Contributing to the Support and Maintenance of the Church as by Law Established, and its Ministers, and for Other Purposes Therein Mentioned ’ ; ‘ An Act to Repeal so Much of the Act for the Support of the Clergy and for the Regular Collecting and Paying the Parish Levies, as Relates to the Payment of the Salaries Heretofore Given to the Clergy of the Church of England ’ ; ‘ An Act for Incorporating the Protestant Episcopal Church ’ ; ‘ An Act to Authorize the Election of Certain Vestries ’ ; ‘ An Act to Repeal the Act for Incorporating the Protestant Episcopal Church, and for Other Purposes ’ ; and ‘ An Act for Giving Certain Powers to the Trustees of the Property of the Protestant Episcopal Church ’ ; be and the same are hereby repealed and declared to be void and of none effect. And it is further declared that the law entitled, ‘ An Act for Establishing Religious Freedom, ’ is a true exposition of the principles of the Bill of Rights and Constitution.”

All of the acts so repealed had been passed subsequent to the adoption of the Bill of Rights, and the last two subse-

quent to 1785, when Mr. Jefferson's bill was enacted. They were now repealed because inconsistent with the 16th section of the Bill of Rights, which, "by referring the subject of religion to conscience," had excepted from the powers granted to the government any control over the subject; and had thus wrought a complete separation between Church and State. The legislature of 1799 declared that previous legislatures had overlooked this great fact in passing the acts thereby repealed. But such legislation did not alter the fundamental law of the land; on the contrary, it was itself void and of no effect. In the paper which I read the fact is stated, that until the year 1799 the great principle involved in the 16th section of the Bill of Rights was not fully recognized in Virginia, and the act given above was referred to by me as evidence of this. It is also evidence of the fact, stated in my address, that the principle of religious liberty, as now held in Virginia, was based on that section of the Bill of Rights. The act cited expressly so stated, and that Mr. Jefferson's bill is but a true exposition of the principle so embodied in the fundamental law of the State, not the introduction of a new or different principle.

It follows, therefore, that the Virginia Bill of Rights was as much a part of her constitution as the Pennsylvania Bill of Rights was of her constitution, of which it expressly formed a part. And the effect of the two constitutions on the previous and subsequent laws of the several States was the same, rendering null and void all acts inconsistent therewith. It also follows that the principle of religious liberty as now understood, involving the absolute divorce of Church and State, was inserted in the Virginia paper, and was in full force from its date, though the legislature did not at first clearly recognize it.

But so far as regards Pennsylvania, claimed by Dr. Stillé as the pioneer in placing "the most sacred of all social rights—the right of religious liberty—under the sanction and guaranty of the fundamental constitution of the State," it appears by reference to her constitutions that she has

never yet embodied in them the principle of religious liberty in its fulness, as has been done in Virginia.

The section of the Virginia Bill of Rights under discussion reads as follows :

“ Religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence, and therefore all men are equally entitled to the free exercise of religion according to the dictates of conscience.”

Mr. Jefferson's act, which the Virginia legislature declared was the true exposition of this section, was as follows :

“ No man shall be compelled to frequent or support any religious worship or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief ; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or effect, their civil capacities.”

It is impossible to conceive of fuller religious liberty, or a more absolute divorce of Church and State. By this principle, all citizens, regardless of their religious belief, or their want of religious belief, whether Christians, Jews or Pagans, infidels or atheists, are granted equal civil rights. The State is not permitted to take any cognizance of the religious beliefs of her citizens in the administration of government, nor in any way to curb their expression. The only exception is that stated in the preamble of the act: “ when principles break out into overt acts against peace and good order.”

Put beside this the section in the Pennsylvania constitution of 1776, adopted after that of Virginia, and relied on by Dr. Stillé as a fuller expression of the principle.

It reads as follows: “ That all men have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences and understanding, and that no man ought or of right can be compelled to attend

any religious worship, or erect or support any place of worship, or maintain any ministry, contrary to or against his free will and consent ; nor can any man, who acknowledges the being of a God, be justly deprived or abridged of any civil right as a citizen on account of his religious sentiment or peculiar mode of worship ; and that no authority can or ought to be vested in, or assumed by any person whatever, that shall in any case interfere with, or in any manner contract, the right of conscience in the free exercise of religious worship."

Under this provision an atheist who does not "acknowledge the being of a God" may "be deprived or abridged of any (or every) civil right as a citizen," and therefore by it the State of Pennsylvania claimed the right to distinguish between the religious beliefs of her citizens, and deprive one class of civil rights. Nor have later constitutions of Pennsylvania broadened the principle. On the contrary, they have narrowed it. In that adopted in 1790, in Article IX., after asserting that "All men have a natural and infeasible right to worship Almighty God according to the dictates of their own consciences," etc., a section is added in the following words: "That no person who acknowledges the being of a God and a future state of rewards and punishments shall on account of his religious sentiments be disqualified to hold office or place of trust or profit under this commonwealth."

This section has been continued in subsequent constitutions. It admits a power in the legislature to require as a qualification for office not only a belief in a God, but a belief in a future state of rewards and punishments:

These constitutions have not repealed the act of 1700, which made it penal "to wilfully, premeditatedly, and despitefully blaspheme or speak lightly and profanely of Almighty God, Christ Jesus, the Holy Spirit or the Scriptures of Truth," as was held by the supreme court of the State in the case of *Updegraph vs. The Commonwealth*, decided in 1824 and reported in 11 *Sergeant & Rawles*, page 394.

This case arose upon words spoken in a public debate derogatory of the Holy Scriptures; the inspiration of which was under discussion. In it the court declared that Christianity was a part of the common law of Pennsylvania, at least to the extent of the admission of its divine origin and truth. This was also subsequently held by the Supreme Court in the celebrated Girard College case.

This review of the discussion of Dr. Stillé, it is submitted, establishes the fact, that though some slight connection between Church and State was kept up for a while in Virginia, after the adoption of her Bill of Rights on 12th June, 1776, yet such connection was in conflict with the principles of that portion of her constitution, and was so declared afterwards. And that instrument was so construed as to effect the complete divorce of Church and State, while the inconsistent legislation was pronounced null and void. And further that so far from Pennsylvania antedating Virginia in the insertion of this great principle into her constitution, she has never to this day adopted that principle "in its fullest meaning and application," as it is held in Virginia.

The principle as expounded in Virginia in Mr. Jefferson's bill and its elaborate preamble is not antagonistic to Christianity, as some suppose. On the contrary it is in accordance with the teaching of its Divine Author. That celebrated bill was but the embodiment of the Presbyterian and Baptist memorials previously addressed to the Virginia legislature, and both of these denominations urged its passage. Hanover Presbytery in 1776 clearly stated the true position of Christianity in their memorial, written by Rev. Caleb Wallace, a Princeton graduate. They said: "We conceive that when our blessed Saviour declares his kingdom is not of this world, he renounces all dependence on State power, and as his weapons are spiritual, and were only designed to have influence on the judgment and heart of man, we are persuaded that if mankind were left in quiet possession of their unalienable rights and privileges, Christianity as in the days of the Apostles, would continue to prevail and flourish

in the greatest purity, by its own native excellence, and under the all-disposing providence of God.”

The Virginia doctrine of religious liberty recognizes the fact that the Divine Author of Christianity has fully endowed it, as he has endowed all truth, with the power of self-preservation. Pure Christianity asks nothing of civil government but to be let alone, and it will be content with nothing less.

AMERICAN TRADE REGULATIONS BEFORE 1789





## AMERICAN TRADE REGULATIONS BEFORE 1789.<sup>1</sup>

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Mr. Gladstone, we are learning, was mistaken in his well-known characterization of the American Constitution. That instrument was not "struck off at a given time by the brain and purpose of man," but was a growth, the product of centuries of experience on both sides of the ocean. In the early constitution of the States many of its principles had already been committed to writing. Just as little did our national tariff system come suddenly into being in 1789. It, too, has a history running back into colonial and early English times. The present brief essay, however, assumes all that important and interesting progress which antedates

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<sup>1</sup> This paper by no means professes to be an exhaustive treatment of so great a subject. It, very briefly, presents the results of investigation in books contained in the Cornell University Library. Most of the works employed will easily be recognized from the titles by which they are cited in the foot-notes. In many cases, however, it has been necessary to shorten in an arbitrary way the ponderous titles, and as some of these works are no longer popular, the following explanations are necessary :

"The Acts and Laws of his Majesty's Province of New Hampshire in New England," is cited as *Laws of New Hampshire*.

"The Acts of the General Assembly of the Province of New Jersey from the time of the surrender of the Government in the second year of the reign of Queen Anne to the present time, being the twenty-fifth year of the reign of King George the Second," is cited as *Acts of the Gen. Assy. of N. J., I.*

"Acts of the General Assembly of the Province of New Jersey from the surrender of the Government to Queen Anne on the 17th day of April, in the year of Our Lord 1702, to the 14th day of January, 1776," is cited as *Acts of Gen. Assy. of N. J., II.*

"Acts of the Council and General Assembly of the State of New Jersey from the Establishment of the present Government and the Declaration of Inde-

the colonization of this continent, and deals, for the most part in a general way, with such trade regulations as emanated from the local legislatures of America. Although this neglected subject can here be only outlined, the facts presented may, perhaps, be taken as typical of the whole: they are gathered from the records and statute-books of colonies with widely different interests.

So great were the number and the variety of the colonial regulations, that some sort of grouping or classification must be attempted. According as trade regulations tend to promote or to retard importation, or to promote or to retard exportation, they seem naturally to fall into four classes, of which the simplest and clearest types are: bounties on imports, duties on imports, bounties on exports, and duties on exports. Such a classification, it is true, has its difficulties. Bounties or duties may bear indirectly on trade; the real character of a regulation may not at all appear on its face; conflicting provisions may be united and balanced in the same act; tonnage must be distinguished from ordinary import duties; and drawbacks are radically different from simple export bounties. But, on the whole, in spite of these and other limitations, the above classification is best adapted to bring order out of confusion, and will therefore be followed.

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pendence to the end of the first sitting of the eighth session on the 24th day of December, 1783," is cited as Acts of Coun. and Gen. Assy. of N. J.

"The Acts of the General Assembly of the Commonwealth of Pennsylvania carefully Compared with the originals," is cited as Acts of Gen. Assy. of Penn.

"Laws of the Commonwealth of Pennsylvania from the 14th day of Oct., 1700, to the 20th day of March, 1810," is cited as Laws of Penn.

"Laws of the State of Delaware from the 14th day of Oct., 1700, to the 18th day of August, 1797," is cited as Laws of Del.

"Laws of Maryland at Large with proper Indexes," is cited as Bacon's Laws of Md.

"Laws of Maryland made since 1763," is cited as Hanson's Laws of Md.

"A complete Revisal of all the Acts of the Assembly of the Province of North Carolina now in force and use," is cited as Laws of N. C.

"Laws of the State of North Carolina published according to Act of Assembly by James Iredell," is cited as Iredell's Laws of N. C.

"Acts and Laws of his Majesty's Colony of Connecticut in New England in America," is cited as Laws of Conn.

Regulations of the first class—that is, bounties or other stimulants to importation—are, it is true, found in the colonial legislation; and their necessity for the Federal government, urged by Hamilton in his famous letter to James Duane, seems ultimately to have been recognized by the Constitution.<sup>1</sup> Yet, in practice, they were rarely granted, and were limited to a few such articles as might at the particular time be urgently needed in America, notably, military supplies, salt, and slaves, or white servants. Reasons are not hard to find. When, as was very often the case in those days, the importer was also the consumer, it was more evidently unwise and needless to give a bounty for importation. Moreover, most of the advantages attainable through import bounties would also follow in some degree from prohibitions or duties on exportation; and in the latter form the regulation would call for no direct expense, if, indeed, it were not a source of revenue. Accordingly, but few unconditioned grants of money were made to importers. Virginia at times remitted her export duty on tobacco to such as would import salt or negroes<sup>2</sup>; Rhode Island, in 1777, granted a bounty of one shilling a bushel on all salt imported within a year, provided the State was given the refusal of it<sup>3</sup>; Maryland quite often encouraged importation by bounties and other indulgences<sup>4</sup>; and, amid the difficulties of the Revolution, Congress repeatedly passed measures of the same general nature.<sup>5</sup> By a South Carolina act of 1716 a bounty of from £22 to £30 per capita on imported servants was granted unconditionally<sup>6</sup>; but in June of the next year this high premium was withdrawn.

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<sup>1</sup> "Annals of the First Congress," vol. i., 153, 154, etc.

<sup>2</sup> Henning's "Statutes at Large; being a collection of all the Laws of Virginia from the first session of the Legislature in the year 1619," i., 540; x., 150; etc.

<sup>3</sup> "Records of the Colony of Rhode Island and Providence Plantations in New England," viii., 239.

<sup>4</sup> Bacon's "Laws of Md.," c. 2 of April, 1671; c. 2 of June, 1676; c. 52 of June, 1692; Hanson's "Laws of Md.," c. 20 of October, 1780.

<sup>5</sup> "Journals of the American Congress from 1774 to 1788," vol. i., 118, 218, 262, etc.

<sup>6</sup> Cooper's "Statutes at Large of South Carolina," ii., 646.

A peculiar reward for the importation of specie is found in some of the colonial tariff laws. By an act of August 8, 1729,<sup>1</sup> Maryland importers were allowed an abatement of 15 per cent. on duties paid with gold or silver coin of their own importation; again, as late as 1784, a similar allowance of 10 per cent. was made.<sup>2</sup> This outcome of the balance-of-trade criterion of national prosperity, seems never to have gained a foothold in most of the other colonies, but it is found in the Massachusetts laws of the state period<sup>3</sup>; and it formed a regular part of the Virginia customs laws from 1705 till 1781, and within this time such rebates of from 10 per cent. to 25 per cent. of the whole duty were granted a score of times.<sup>4</sup> In her latest and most comprehensive tariffs, however, Virginia inserted no such provisions.

For an increase of exports, legislators relied not so much upon direct bounties for exportation as upon bounties and other aids to production. Even England, usually so slow to support American industry, gave rewards for the production of timber, tar, pitch, potashes, flax, hemp, silk, wine, yards and masts, fish, rice, and tobacco. This list is noteworthy in several respects. Under the existing prohibitions on colonial manufactures, a good part of the articles would seek a market in England; others were necessary to the naval supremacy of the same country; and all were such that it was hoped their production would divert the industrial energy of the colonies from manufacturing.<sup>5</sup>

Among the colonies themselves there were the greatest differences in the zeal with which this generous maternal example was followed. In all, the same general policy was accepted; the means employed were various. Aside from the usual method of granting pecuniary bounties proportional to the amount of the product, prizes were offered

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<sup>1</sup> Bacon's "Laws of Md.," c. 15 of August, 1729.

<sup>2</sup> Hanson's "Laws of Md.," c. 84 of November, 1784.

<sup>3</sup> *Quarterly Journal of Economics*, ii., 481.

<sup>4</sup> Hening's "Statutes of Va.," iii., 229; iv., 143, 276, 310, 317; x., 501; etc.

<sup>5</sup> Bishop's "A History of American Manufactures from 1608 to 1860" (2 vols. : Philadelphia, 1861), i., 328, 329.

for the first or the best produced ;<sup>1</sup> taxes were remitted to manufacturers ; monopolies of the market were given for limited times ; lands were granted ; bills of credit and loans were issued to the projectors of mills ; producers were exempted from military duty ; certain articles were either made receivable for taxes or were constituted general legal tender ; and in many cases the declared purpose was to promote domestic production.<sup>2</sup> The branches of industry thus helped by the colonial governments were not only those engaged in the production of raw materials and naval supplies, but also manufactures, as of salt, powder, fire-arms, iron, linens, cottons, and woollens.

In the years preceding the Revolution there was an unmistakable falling off in the number and amount of these rewards for production. For this movement repealing acts suggest two reasons, apparently opposite, but possibly both due to a rising feeling that governmental direction of industry, so far as it was at all advisable, should take some other form. The records of Rhode Island for 1751, after reciting that the bounty on woollen goods " may draw the displeasure of Great Britain upon us, as it will interfere with their most favorite manufactory," state that the bounty on flax and the fishery has been tried and not found beneficial.<sup>3</sup> In South Carolina, on the other hand, it was more than once declared that the reason for the repeal was the sufficient attainment of the end proposed.<sup>4</sup> The influence of British opposition to colonial manufactures must be admitted, but that it was not the chief cause of the withdrawal of bounties appears from the fact that after the Declaration of Independence, when British preferences were no longer regarded, this class of regulations failed to regain its former prevalence.

<sup>1</sup> Heney's " *St. of Va.*," i., 487, 521.

<sup>2</sup> " *Rec. of R. I.*," v., 318 ; " *Laws of N. H.*," 141 ; " *Records of the Governor and Company of the Massachusetts Bay in New England*, iv., part i., 137 ; Iredell's " *Laws of N. C.*," 644 ; " *Grants Concessions and Original Constitutions of N. J.*," 118 ; " *Acts of the Council and Gen. Ass'y of N. J.*," 17, 20, 29, 33, 53 ; " *Laws of N. H.*," 32 ; Cooper's " *St. of S. C.*," ii., 37.

<sup>3</sup> " *Rec. of R. I.*," v., 319. <sup>4</sup> Cooper's " *St. of S. C.*," iii., 670 ; iv., 428.

Drawbacks were not allowed in the earliest colonial tariffs, and when they were introduced, it was in a somewhat different form from that which they afterward assumed. One of the first was in the Massachusetts act of 1668,<sup>1</sup> wherein the amount of the drawback was only one half of the original duty, but the time within which the goods must be reexported was unlimited. There was also the curious provision that a part of the import duty, one half in most cases, should be remitted on condition that in no event thereafter was a drawback to be claimed. In South Carolina, before any general tariff was in force, the whole duty on liquors was to be refunded if they were reexported within six months.<sup>2</sup> Within the next twenty-five years the South Carolina drawbacks became fixed, after some variations,<sup>3</sup> at three fourths of the duty on all goods exported again in six months.<sup>4</sup> In the act of 1787 occurred a provision whereby goods intended for reexportation might be bonded and so pay no duty. Virginia, too, at first allowed but three fourths of the duty by way of drawback, and that only on liquors and slaves exported within six weeks<sup>5</sup>; but in 1726 the amount was made equal to the whole duty, and the time extended to three months.<sup>6</sup> By 1730 it was the rule to repay the whole duty on goods exported within six months,<sup>7</sup> and, except in the case of special imports, as slaves (twelve months) and horses (three months),<sup>8</sup> these terms were maintained throughout the colonial period.<sup>9</sup> After the establishment of the state government in Virginia, drawbacks were less common, and by the important act of 1786 they were very closely restricted. None were allowed,

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<sup>1</sup> "Rec. of Mass.," iv., part 2, 410.

<sup>2</sup> Cooper's "St. of S. C.," ii., 96, 125.

<sup>3</sup> Cooper's "St. of S. C.," ii., 125, 200.

<sup>4</sup> Cooper's "St. of S. C.," ii., 649; iii., 56, 159, 556.

<sup>5</sup> Hening's "St. of Va.," iii., 212.

<sup>6</sup> Hening's "St. of Va.," iv., 143.

<sup>7</sup> Hening's "St. of Va.," iv., 276.

<sup>8</sup> Hening's "St. of Va.," iv., 317, 394; v., 28, 160; vi., 124, 217, 353; vii., 281; viii., 190.

<sup>9</sup> Hening's "St. of Va.," iv., 310, 393; v., 26, 310; vi., 193, 222, 354; vii., 133, 265; viii., 38, 190, 335, 529.

unless within sixty days of importation the goods in the same unbroken packages were reexported by the original importer by water and in the same vessel in which they came, or in a vessel belonging to citizens of the United States. Under these circumstances, if within three months of exportation the exporter made application for the drawback, and within six months furnished proof that the goods were not relanded in Virginia, the whole of the duty was to be repaid, provided it was as much as £50. By many of the acts taxing imported slaves, the same rebate was allowed in case of death within forty days.<sup>1</sup> In most of the other colonies the drawback presents little else that is noteworthy ; indeed in the non-commercial colonies of New Jersey, Delaware, and North Carolina it seems rarely to have been allowed.

Although the drawback had in some measure gained acceptance in the more important of the colonies, the name does not once occur in the Journal of the Continental Congress in connection with the import resolution of 1781, nor could the Northern members secure its insertion in the proposed Continental tariff of 1783.<sup>2</sup> The delegates from the South asserted that such a measure would be an undue burden on their constituents, and that along so extensive a seaboard it would be liable to the grossest abuses. In the debates upon the first tariff under the Federal Constitution, the propriety of the drawback appears to have been recognized ; and an attempt to extend the principle so as to allow a rebate on rum, the product of imported molasses, although finally defeated, was at first in a fair way to succeed.<sup>3</sup> An even wider range was in fact given the drawback in the customs act passed in the summer of 1789 by the as yet independent state of Rhode Island.<sup>4</sup>

Inasmuch as export duties were not an object of expenditure but a source of revenue, and were, moreover, considered a just and easy method of taxation,<sup>5</sup> they were quite

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<sup>1</sup> Hening's "St. of Va.," vi., 217, 353 ; vii., 281 ; viii., 190.

<sup>2</sup> "Journals of Amer. Cong.," iv., 174.

<sup>3</sup> "Annals of 1st Cong.," i., 180-182, 240.

<sup>4</sup> "Rec. of R. I.," x., 340.

<sup>5</sup> Hening's "St. of Va.," ii., 130, 133.



generally resorted to, even where, as in New Jersey, imports were rarely taxed. But the effect of such duties is so burdensome to trade that the rates were, as a rule, quite low. In Virginia the duty on tobacco ranged from two shillings to ten shillings a hogshead of five hundred pounds, but was most often at two shillings; in Maryland the same article was variously taxed at from three pence to two shillings a hogshead, while other exports were rated proportionately. Tobacco, hides, skins, furs, boards, and timber were the most common objects of export duties, but each colony had its own peculiar lists. Thus at various times Virginia taxed tobacco, hides, skins, furs, wool, and iron; Connecticut, timber and staves; New Jersey, staves and many other products of her forests; Canada, skins and furs; South Carolina, leather, furs, skins, Indian slaves, and timber; Maryland constantly taxed tobacco, and at times furs, skins, beef, pork, bacon, iron, flour, wheat, and all European goods.<sup>1</sup> This power to tax exports, however freely exercised by the separate states, was too dangerous to be entrusted to the central government. Advocates of strong Federal authority, such as Hamilton, and practical financiers, as Robert Morris, sought in vain to invest Congress with the same right.<sup>2</sup> The exporting states of Virginia, Rhode Island, and Pennsylvania wished to retain for themselves the power to tax exports,<sup>3</sup> but above all were unwilling to give it up to the general government. It was only after much debate, that an agreement was reached on this point in the Convention of 1787.<sup>4</sup> Indeed, the final

<sup>1</sup> Henning's "St. of Va.," i., 469, 540; ii., 130, 466; iii., 53; vi., 91; vii., 69, 331; ix., 349; xi., 95, 196; xii., 288. "Acts and Laws of His Majesty's Colony of Conn. in New England in America," 238. "Acts of Gen. Ass'y of N. J., I," 15, 285; "Acts of Council and Gen. Assy. of N. J.," 331. Smith's "History of Canada," Appendix. Cooper's "St. of S. C.," ii., 64, 110, 200, 649; iii., 159, 193. Bacon's "Laws of Maryland," c. 2 of 1638, c. 2 of 1642, etc., c. 23 of 1694, c. 24 of 1695, c. 27 of 1704; Hanson's "Laws of Md." c. 8 of June, 1780, c. 84 of Nov., 1784.

<sup>2</sup> "The Works of Alexander Hamilton" (3 vols., New York MDCCCLI), i., 158; "The Papers of James Madison" (3 vols., Mobile. 1842), i., 378.

<sup>3</sup> Elliot's "Debates" (Lippincott's ed. of 1876), iii., 481-483.

<sup>4</sup> Elliot's "Debates," i., 245-255. "Madison Papers," iii., 1388.

prohibition was carried against the votes of Pennsylvania, Delaware, New Jersey, and New Hampshire.

For this prohibition Jefferson suggested the most widely accepted reason. He held that some such provision was necessary in order to secure the adhesion of the great agricultural states of the South. But this is the immediate reason, and it, in turn, needs explanation.<sup>1</sup> Madison mentions the impossibility of making export duties proportional to the ability to pay, since, as he thought, some of the most wealthy states would escape the burden of such a tax.<sup>2</sup> Another argument against export duties has the sanction of the Continental Congress: export duties increase the cost of putting products before the foreign consumer, and so limit exportation. But as exports and imports are equal, whatever diminishes exports cuts off importation and destroys commercial prosperity.<sup>3</sup> Still other explanations might be presented. The gradual falling off in the frequency of such taxes in the years just past might indicate a stronger feeling against governmental regulation of trade. Again, the duties had apparently, in most cases, and professedly in some, been levied for the revenue alone<sup>4</sup>; and under one uniform and comprehensive system it was expected that the rate of import duties would be materially increased, and their product made adequate to the ordinary needs of government.<sup>5</sup> Hence export duties would no longer be necessary, and a power which was useless, if not a positively dangerous, might well be denied to Congress.

The essential character of the colonial inspection laws might be inferred from the general name. All agreed in

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<sup>1</sup> "The Writings of Thomas Jefferson" (9 vols., Philadelphia, 1869), vi., 483.

<sup>2</sup> "Letters and Other Writings of James Madison, Fourth President of the United States" (9 vols., Philadelphia, 1867), iii., 640.

<sup>3</sup> "Journals of Amer. Cong.," iv., 200, 201. See also "Madison Papers," ii., 1080.

<sup>4</sup> Hening's "St. of Va.," ii., 130, 133; vi., 193.

<sup>5</sup> *Federalist*, No. xii.; Elliot's "Debates," ii., 42, 64, 76, 102, 193, 266, 343, 467, etc.

requiring the commodities included within their scope to undergo examination at the hands of official inspectors, and in establishing fees; but they exhibit radical differences of detail as to the articles inspected, the amount of the fee, and the character and extent of the inspectors' functions. The articles included, like those subjected to export duties, were naturally among the staple products of the colonies. Thus, for example, New Hampshire inspected, among other things, her fish; Virginia and South Carolina, their tobacco; North Carolina, pitch, tar, and tobacco; and New Jersey, timber and provisions.<sup>1</sup> In some cases the inspection consisted in measurement,<sup>2</sup> in other cases in determining and indicating the quality, and in packing.<sup>3</sup> The fee of Virginia inspectors of tobacco was in 1783 as high as 6s. a hogshead, although at the same time an export duty of 4s. was in force.<sup>4</sup> South Carolina at this time gave her inspectors of the same commodity a fee not far different; and twenty years earlier Maryland laws allowed a fee of approximately 5 per cent.<sup>5</sup> In general, however, the rate was much lower, and in some instances it was almost nominal: 1*d.* per cask on flour; 2*d.* per barrel on pitch, and 1*d.* per barrel on tar; 4*d.* per barrel on provisions; 6*d.* per barrel on beef and pork.<sup>6</sup> In at least one case the inspection was not required except on demand of the buyer or the seller, and the fee was then to be paid one half by each.<sup>7</sup> In some states imported goods were also subjected to inspection.<sup>8</sup> On the whole, this supervision of exports, intended to raise the reputation of the commodities in the

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<sup>1</sup> "Laws of N. H.," 150; Henning's "St. of Va.," xi., 205; Cooper's "St. of S. C.," iv., 604, 681; "Laws of N. C.," 168, 207, 218; "Acts of Gen. Assy. of N. J., II.," 381, 384.

<sup>2</sup> "Laws of N. H.," 150.

<sup>3</sup> Cooper's "St. of S. C.," ii., 157; iv., 604, Etc.

<sup>4</sup> Henning's "St. of Va.," xi., 196, 205.

<sup>5</sup> Cooper's "St. of S. C.," iv., 604, 681; Bacon's "Laws of Md.," c. 18 of Nov., 1763.

<sup>6</sup> "Acts of Gen. Assy. of N. J., II.," 381; "Laws of N. C.," 457; "Laws of Conn.," 19; Cooper's "St. of S. C.," ii., 157.

<sup>7</sup> "Acts of Gen. Assy. of N. J., II.," 381.

<sup>8</sup> "Laws of N. H.," 150; "Laws of Penn.," ii., 350.

foreign market, increased in frequency and extent during the state period, and it was, perhaps, because of this and its moderate and beneficial use, that it was allowed to remain with the states under the Federal Constitution. The wide acceptance of inspection laws and the height to which the fee sometimes rose, constitute this an important class of trade regulations.

Where the means already described were so freely employed to direct and to check commerce, it was quite natural to go one step further and to prohibit absolutely exportation or importation.<sup>1</sup> Prohibitions upon exportation, or embargoes, were at first by far the more common, although, as a rule, upon some one article or class of articles, and of short duration. Very naturally, too, staples or necessities were most often the objects of these prohibitions. Grain, flour, meats of several kinds, salt, and, in time of actual or prospective war, military supplies accordingly embrace nearly all the articles usually included in the embargo,<sup>2</sup> although by no means all that were ever prohibited.<sup>3</sup>

In the earlier years of colonial life, before the settlements became established and supplied with reliable means of subsistence, scarcity more often led legislators to check exportation; but after agriculture and the fisheries began to flourish, and means of communication and transportation improved, the necessity for such restrictions was felt only when an unusually poor harvest, an Indian or inter-colonial war, or a speculator's corner disturbed the normal state of affairs.<sup>4</sup> The graver disturbance of the French and Indian

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<sup>1</sup> In Va. : Hening's "St. of Va.," i., 227, 347, etc. ; iii., 185, 200 ; iv., 221 ; vi., 553, etc. ; ix., 385, 530, 533 ; x., 105, 140, 306, 376, 423, Etc., etc. In other colonies nearly as many.

<sup>2</sup> "Acts of Council and Assy. of N. J.," 8, 25, 100, Etc. Cooper's "St. of S. C.," ii., 346.

<sup>3</sup> Cooper's "St. of S. C.," ii., 627. Bacon's "Laws of Md.," c. 17 of Oct., 1663 ; c. 6 of Sept., 1681. Iredell's "Laws of N. C.," 628. Cooper's "St. of S. C.," iv., 376, 480, 507.

<sup>4</sup> The greater freedom of the later colonial statute-books from embargo acts is partly explained by the numerous concessions to the Executive of power to meet any emergency by proclaiming an embargo. But, on the whole, a more reasonable explanation is found in the firmer establishment of industries and the improved communication by coasters and otherwise.

war again brought into vogue the former practices, and with the outbreak of the Revolution embargoes became more frequent than ever before. Importation as well as exportation was forbidden, even where such measures had hitherto been rarely taken.<sup>1</sup> Congress and the states for a time worked in harmony.<sup>2</sup> Even Rhode Island, whose policy in reference to the impost resolutions of 1781 and 1783 was so obstinately selfish, laid embargoes at the request of Congress, and in November, 1776, recommended to the other New England states a combination to make the prohibition more effective.<sup>3</sup> When, however, the crisis of the war seemed safely passed, there came a second and final abatement in the frequency of these violent measures. It is to be noted that, whereas in the earlier years the duration of the embargoes was very short, six months, three months, or even less, in the later colonial and the state period there was a tendency to make their continuance permanent or dependent on some future event.

The fourth class of trade regulations, or those which bear upon imports, are of greater practical interest. For not only did fees of various kinds, tonnage, and other sorts of import duties constitute the most powerful means of directing the course of commerce, and, on the whole, the most productive source of indirect revenue, but these regulations have survived their early contemporaries, and come down into our present system.

Duties bearing upon importation first appeared in the form of tonnage, or "castle duties," or "powder money." These taxes were at first levied and payable in powder or ammunition<sup>4</sup>; and it was sometimes by custom,<sup>5</sup> sometimes by virtue of an option expressly granted in the acts,<sup>6</sup> that

<sup>1</sup> "Acts of Coun. and Gen. Assy. of N. J.," 241; "Journ. of Amer. Cong.," i., 15; etc.

<sup>2</sup> Except Delaware, "Madison Papers," i., 86.

<sup>3</sup> "Records of R. I.," viii., 53, 618.

<sup>4</sup> Henning's "St. of Va.," i., 176, 192; Cooper's "St. of S. C.," ii., 20, etc.; "Laws of N. H.," 64; "Rec. of R. I.," iii., 277.

<sup>5</sup> Bacon's "Laws of Md.," c. 17 of June, 1692.

<sup>6</sup> Henning's "St. of Va.," ii., 134, 466; "Rec. of Mass.," iv., part 2, 331; "Rec. of R. I.," iii., 487; Cooper's "St. of S. C.," ii., 42, 82.

they were changed to a money equivalent. The date of this change, which was made to relieve shipmasters from the inconvenience of carrying gunpowder and leaden shot,<sup>1</sup> varied considerably. In Massachusetts the transition was effected by 1679, and in Maryland by 1692; but in South Carolina the old powder duty of half a pound per ton was levied as late as 1741.<sup>2</sup> The reason for the tax in kind and the names by which it is called in the early records appears from the fact that not only was the product in its earlier form turned over directly to the "castle" or port fortifications, but in its later commuted form it was for some time kept a distinct fund for the support of forts.<sup>3</sup> Afterward the same revenues were specially appropriated to the support of light-houses,<sup>4</sup> and it was not till late in the colonial history that tonnage duties were merged in the general revenues.

There is so much discord and irregularity in the provisions of the different states that the occasional instances of harmony seem the result rather of accident than of design. First, there were local differences. Such non-commercial states as New Jersey, Delaware, and North Carolina, were, naturally, little concerned with tonnage; while Virginia, Massachusetts, Rhode Island, South Carolina, and Maryland made it a constant care. In the second place, the minimum size of the taxed vessels was not the same.<sup>5</sup> The rate per ton seems at first sight to have varied within narrower limits. Thus at about 1680, Virginia had settled upon 15*d.* per ton; Massachusetts on 12*d.*; Rhode Island, the same; South Carolina, 15*d.*; and Maryland,

<sup>1</sup> "Rec. of R. I.," iii., 487.

<sup>2</sup> "Rec. of Mass.," v., 242; Bacon's "Laws of Md.," c. 17 of June, 1692; Cooper's "St. of S. C.," iii., 588.

<sup>3</sup> Hening's "St. of Va.," i., 176, 192, etc.. "Rec. of Mass.," ii., 132; iv., part 2, 331; v., 242. "Rec. of R. I.," iii., 277, 487. "Laws of N. C.," 7. "Laws of Conn.," 194.

<sup>4</sup> Hening's "St. of Va.," xii., 304. "The Public Records of the Colony of Connecticut," xi. "Rec. of R. I.," v., 472; ix., 701.

<sup>5</sup> Thirty tons in N. H.,—"Laws of N. H.," 64; 20 tons in Mass.,—"Rec. of Mass.," iv., part 2, 331; 10 tons in R. I. and Conn.,—"Rec. of R. I.," iii., 277; "Laws of Conn.," 194.

14*d*.<sup>1</sup> But this apparent harmony was not permanently maintained; and, even for the time being, is made of little significance by the fact that there were also governor's and port officers' fees, pilotage, lighterage, and dockage charges, and specific amounts levied per vessel in addition to the rate per ton, with all of which the colonial legislators knew how to burden shipping. As long as the duty was paid in ammunition, a further source of confusion was present in the different prices of powder and shot. For example, at about 1700, in South Carolina the half pound of powder might be commuted at 2*s*.; in New Hampshire a whole pound was considered worth 2*s*.; while in Rhode Island the duty was one pound or 1*s*.

It is not, however, to be supposed that there are absolutely no traces of concerted action. It can scarcely be an accident that for several years after 1661 the tonnage of Virginia and of Maryland should coincide at one half pound of powder and three pounds of shot.<sup>2</sup> The disposition of the tonnage revenues has already been noted as the same in several of the colonies; and a few other common features are to be observed in the different systems. There is a tendency, interrupted but unmistakable, toward higher rates and toward greater explicitness in the wording of the acts.<sup>3</sup>

Among the many principles of discrimination, the most common was that which made ships owned within the local

<sup>1</sup> Hening's "St. of Va.," ii., 466; "Rec. of Mass.," v., 242; "Rec. of R. I.," iii., 277; Cooper's "St. of S. C.," ii., 42; Bacon's "Laws of Md.," c. 17 of June, 1692.

<sup>2</sup> Hening's "St. of Va.," ii., 134, etc.; Bacon's "Laws of Md.," c. 7 of May, 1661; c. 2 of June, 1676, etc.

<sup>3</sup> Taking Virginia as an example, we find these changes: in 1633,  $\frac{1}{4}$  lb. powder, and shot proportionately; 1645,  $\frac{1}{2}$  lb. powder; 1646,  $\frac{1}{2}$  lb. powder and 3 lb. shot; 1680,  $\frac{1}{2}$  lb. powder and 3 lb. shot, or 1*s*. 3*d*.; 1780, 1*s*. 3*d*.; 1785, 5*s*.; 1786, 2*s*. to 6*s*.

The earliest tonnage of Virginia was to be collected on "every ship coming out of the ocean"; another, ten years later, was at the rate of " $\frac{1}{4}$  lb. of powder, shot, match, and paper royal proportionately for every ton of shipping coming to Virginia." On the other hand, the act of 1786 specified with the greatest fullness of detail the vessels on which tonnage of from 2*s*. to 6*s*. should be paid. In fact many of the latest state acts are more carefully phrased than the Federal acts which immediately followed them.

jurisdictions free as against those owned without.<sup>1</sup> But here the exemption of English vessels seems, in some cases at least, to have been implied.<sup>2</sup> At times, too, exemptions were extended wholly<sup>3</sup> or in part to portions of America and to friendly powers,<sup>4</sup> only partially granted to England,<sup>5</sup> or variously graded according to the place of construction and ownership of the vessel.<sup>6</sup> In the state period there were several instances where the line of division was drawn between nations within and without the alliance of the United States. The influence of this distinction, which was aimed especially against England, was felt by the Federal Congress in 1789.

Lastly come import duties proper. And here let it again be recalled that there were also other impositions which, in the end, directly or indirectly, fell on the same commodities.

At first glance, indeed, the connection between the British and American systems is not seen. Whereas in England nearly every article of exportation or importation had long been enumerated in the tariff lists, the early American tariffs left most articles free.<sup>7</sup> Even when in America, too, all articles came under a duty, few were enumerated, and the most were subject only to a general ad valorem assessment.<sup>8</sup> Again, the first colonial customs seem on the whole

<sup>1</sup> "Laws of N. H.," 64; Henning's "St. of Va.," i., 402, 480; ii., 272; "Records of Mass.," iv., part 2, 331; "Rec. of R. I.," iii., 487; Cooper's "St. of S. C.," ii., 150; iii., 588; iv., 621; Bacon's "Laws of Md.," c. 7 of May, 1661.

<sup>2</sup> Henning's "St. of Va.," ii., 218.

<sup>3</sup> "Rec. of Mass.," ii., 132; v., 242; "Rec. of R. I.," iii., 504; Henning's "St. of Va.," ii., 218.

<sup>4</sup> Henning's "St. of Va.," xii., 289.

<sup>5</sup> "Rec. of Mass.," ii., 132.

<sup>6</sup> *E. g.*, Cooper's "St. of S. C.," ii., 150; iii., 588. The same discrimination held in New York, Rhode Island, and other colonies.

<sup>7</sup> Henning's "St. of Va.," ii., 128; iii., 23, 88, 193; "Rec. of Mass.," i., 96; ii., 106, 130, 246; "Rec. of R. I.," iv., 34, 450, 454; "Laws of Conn.," 207, 238; Cooper's "St. of S. C.," ii., 96; 164, 177; "Laws of Del.," i., 166; "Acts of Gen. Assy. of N. J., I.," 291; "Colonial Records of Pennsylvania," i., 98; "Records of the Colony and Plantations of New Haven," ii., 145, 452, 591. But see "Laws and Ordinances of New Netherland, 1638-1674," 31.

<sup>8</sup> "Rec. of Mass.," iv., part 2, 410; Henning's "St. of Va.," x., 379, 501.



to be levied for the revenue which they would produce,<sup>1</sup> although it was largely the introduction of this principle of tariff for revenue into the British colonial policy, that aroused America against Great Britain. But these difficulties lie upon the surface. In general, the change from ad valorem to specific duties was regarded as at once a preventive of fraud and a means of increasing the tax.<sup>2</sup> The crude state of the art of customs taxation and the small need for provincial revenues, as distinguished from those of the central government, would, therefore, account both for the brevity of the earliest lists and for the prevalence of ad valorem duties. The fact that the colonial acts regularly stated or at least implied a primary regard for revenue is not inexplicable to one who recalls that in most cases these acts were subject to the approval of the home government, and were, therefore, little likely to stand, if they openly professed to be directed against British interests. When it is still further recalled that the tariffs were expected to supply but a part of the indirect taxes, and that indirect taxation was in turn the less important method of raising revenues, but a very modest beginning should be expected for import duties. And in most of the colonies the beginning was indeed small.<sup>3</sup>

In 1661, after export and tonnage duties had been in force for years in Virginia, the legislature thought it necessary, in placing the first import duty on rum and sugar, to justify its course by a reference to the evil effects of drink.<sup>4</sup> The only articles taxed by this act were liquors and sugar; and these, with the later specification of different kinds of liquors, made up the dutiables until 1699. In this year funds were needed for the erection of a capitol; and duties of 15s.

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<sup>1</sup> Hening's "St. of Va.," iii., 193; "Rec. of Mass.," ii., 132; iv., part 2, 410, Etc.

<sup>2</sup> "Madison Papers," i., 340; "Annals of First Congress," debates on the tariff of 1789.

<sup>3</sup> But there was a duty of ten per cent. on all goods imported into New Netherland in 1642. "Laws and Ordinances of N. N.," 31. See also "Documents relating to the Colonial History of the State of New York," i., 113.

<sup>4</sup> Hening's "St. of Va.," ii., 128.

and 20s. respectively, were put on servants and slaves.<sup>1</sup> No further additions were made to the lists until the formation of the state government;<sup>2</sup> but upon liquor and slaves the duty was maintained with considerable uniformity. Aside from minor exceptions and conditions, the rate was kept pretty regularly at 3*d.* or 4*d.* per gallon on wines and spirits, and 1*d.* on beer, ale, and cider; upon slaves 5 per cent. of the selling price, or, later, 10 per cent. At the Declaration of Independence, the fall of the royal government, and the consequent lapse of its laws, left Virginia without a tariff; but, soon after, a general duty of 2½ per cent. ad valorem, was put on all imports.<sup>3</sup> To this, specific duties were added in large numbers, and the ad valorem rate was itself often changed. This development, which was now more rapid than in the colonial period, followed the same course, and took in various kinds of spirituous and malt liquors and wines; but it went further than before and added new articles. The effect of Virginia's earlier state tariffs on the impost of 1783 is uncertain; but it can scarcely be doubted that the Federal act of 1789 owes many of its items to the latest Virginia tariffs.

In Massachusetts, a typical northern colony, there is to be seen the same general course of legislation. After a crude and temporary imposition on beaver skins, the first experiment here was a duty of one twenty-fourth part of "the value current among merchants," which was in 1645 levied upon imported wines. Here, too, wines, brandy, and "rumme," continued to be taxed; and here, too, when the first general tariff act was passed, salt and gunpowder, money, plate, and bullion were excepted.<sup>4</sup>

Inasmuch as Rhode Island so resolutely opposed the imposts of 1781 and 1783, and refused to come into the Union until after the act of 1789 was passed, her colonial legislation has not so direct a bearing upon the general

<sup>1</sup> Hening's "St. of Va.," iii., 193.

<sup>2</sup> Except in unimportant cases, as in Hening's "St. of Va.," vi., 124.

<sup>3</sup> Except salt, blankets, iron and steel, arms and ammunition. Hening's "St. of Va.," x., 165.

<sup>4</sup> "Rec. of Mass.," i., 96, 140; ii., 106, 246; iv., part 2, 410; v., 138.

scheme of American customs. Still her almost isolated position gives her course a certain interest. During the period before the Revolution not much was here done in the way of taxing imports. Afterward, when the critical point of the war was passed, this state, in the height of her local jealousy, made frequent and vigorous use of her power to tax imports. In June, 1783, having recently refused Congress the impost of 1781, she levied on all goods of foreign manufacture a duty of 2 per cent., and a year later increased it to 2½ per cent.<sup>1</sup> Afterward, when she had so conditioned her grant of the impost of 1783 that "it cannot be considered a compliance with any part of the plan,"<sup>2</sup> she encouraged her state manufactures by still higher duties, and finally met the tariff of 1789 by corresponding duties on goods imported from the United States.

The customs laws of South Carolina were from the first more complex than even those of Virginia. The legislative records are incomplete, but it appears that in 1695 was passed an amendment to a previous act taxing liquors, tobacco, and provisions.<sup>3</sup> Other similar acts followed and in 1703 was enacted a general tariff, whereby, after liquors of several kinds, provisions, and slaves had been specifically taxed, all else was brought under an *ad valorem* rate of 3 per cent. This act, modified or supplemented in times of special need and gradually including more specific duties, formed the permanent basis of the South Carolina system, and, after being repeatedly continued by the royal government of the province, was revived by the state in 1783.<sup>4</sup> Here too, as in Virginia, these years are filled with trade regulations which furnished data for later law-makers. The direct, positive bearing of these South Carolina acts upon the first Continental tariffs is not, however, of great importance. The state act of 1783 was not yet passed when the impost of that year was made up by Congress; and when the national tariff of 1789 was prepared, no special regard was had for the previous experience of South Carolina.

The other colonies present each its own peculiarities.

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<sup>1</sup> "Rec. of R. I.," ix., 719; x., 48.    <sup>2</sup> "Journals of Amer. Cong.," iv., 618.

<sup>3</sup> Cooper's "St. of S. C.," ii., 96.

<sup>4</sup> Cooper's "St. of S. C.," iv., 565.

Contrasts both of detail and of general policy abound, and among them, too, certain fundamental similarities. Those colonies which, by reason of their geographical situation, received a large part of their foreign wares through their neighbors, did not find it practicable to collect any considerable duties along their inland frontiers. North Carolina, therefore, and New Jersey furnish few and comparatively unimportant data; Maryland, although among the most active in taxing exports, was, until after the Revolution, as near the other extreme in import duties; while I have found not a single import duty in the Delaware laws.<sup>1</sup> In this connection two acts, one of Maryland and one of New Jersey, are noteworthy. For the two years 1778 and 1779 all duties, except those on imported slaves, were suspended in Maryland. New Jersey, in granting Congress the impost of 1783, ordained that until that duty should go into effect, her ports should be "free of all duties, customs, or impositions of any species or denomination."<sup>2</sup> Connecticut, too, had no import duties at this time.<sup>3</sup>

But, notwithstanding these local and other peculiarities, there are features, which, roughly speaking, are found in all the colonies. Liquors were the first objects of the duty,<sup>4</sup> and they remained the centre about which were grouped the later additions. Slaves, too, although brought into the lists at different times, were ultimately taxed at North and South alike.<sup>5</sup> Later on, liquors were regularly divided into

<sup>1</sup> There was, from 1730 on, a charge of £5 per capita on criminals imported, and a fee of 6d. on immigrants.—"Laws of Del.," i., 166.

<sup>2</sup> Hanson's "Laws of Md.," c. 18 of Feb., 1777. New Jersey still maintained her old charge of £5 per capita on convicts imported as servants, and £15 on imported slaves. "Acts of Council and Gen. Assy. of N. J.," 329.

<sup>3</sup> "Works of Hamilton," ii., 370.

<sup>4</sup> Hening's "St. of Va.," ii., 128. "Rec. of Mass.," ii., 106. "Records of the Colony of New Plymouth in New England," xi., 131; "Rec. of R. I.," iv., 450; "Rec. of New Haven," ii., 145, 452, etc. "Rec. of Conn.," i., 255, etc. Cooper's "St. of S. C.," ii., 96. "Laws of N. C.," 45. "Acts of Gen. Assy. of N. J. I.," 271. Bacon's "Laws of Md.," c. 22 of June, 1692. "Rec. of Penn.," i. 199.

<sup>5</sup> "Rec. of R. I.," iv., 34; Cooper's "St. of S. C.," ii., 200; "Rec. of Penn.," iii., 250, 359; viii., 601; Hening's "St. of Va." iii., 193; iv., 469; "Acts of Gen. Assy. of N. J. II.," 300, 315; Bacon's "Laws of Md.," c. 28 of Nov., 1763; c. 9 of July, 1754; Iredell's "Laws of N. C.," 577.

wines, spirituous and malt liquors, and each of these in turn subdivided; tea, sugar, and coffee became common dutiables, and salt was regularly made duty free; at some time, also, a general *ad valorem* rate was introduced to cover articles before untaxed. Beyond these, and possibly a few other generalizations, it is hardly safe to go. Each colony filled in the details of its tariff-lists as its own interests were thought to require. Thus Rhode Island, with the aim of becoming a manufacturing state, specified many manufactured products, hats, boots, shoes, clothing, adzes, axes, and other tools, paper, soaps, canes, toys, clocks, jewelry, etc.—articles which “might be manufactured to advantage within this state.”<sup>1</sup> Virginia, having public salt works, even taxed salt after the Revolution.<sup>2</sup> South Carolina included more of agricultural and grazing products, as bread, flour, ginger, cheese, hams, provisions, candles, etc.<sup>3</sup> But not only were there such differences between the colonies, but there were others scarcely less in the same colony from year to year.

Although the articles were so variously enumerated and classified, there was still enough similarity, especially after the impost resolutions of 1781 and 1783, to give a rude standard for showing the frequent inequality of rates. A few cases will serve as examples. In 1698, Maryland, in order to secure funds for the erection of a capitol, was collecting a duty of 2s. 6d. on white servants, and 10s. on slaves. Virginia, for the same purpose, taxed them 15s. and 20s. respectively. And while the rate seems to have remained the same in Virginia, in Maryland it was increased to 20s. on both servants and slaves in 1704, and to 40s. in 1717.<sup>4</sup> In 1784, both Maryland and South Carolina passed long and important tariff acts, which show in a fair proportion the harmony and the conflicts of the period.<sup>5</sup> Mary-

<sup>1</sup> “Rec. of R. I.,” x., 89, 115.   <sup>2</sup> Hening’s “St. of Va.,” ix., 310; xi., 196.

<sup>3</sup> Cooper’s “St. of S. C.,” ii., 200, 649; iii., 159.

<sup>4</sup> Bacon’s “Laws of Md.,” c. 9 of May, 1695; Hening’s “St. of Va.,” iii., 193, 212, 229.

<sup>5</sup> Hanson’s “Laws of Md.,” c. 84 of Nov., 1784; Cooper’s “St. of S. C.” iv., 607.

land taxed all spirits at 2*d.* per gallon; South Carolina had three classes, at 1*d.*, 2*d.*, and 3*d.* Each classified wines in its own way, and Maryland taxed them at 3*d.*, 4*d.*, and 6*d.* per gallon; South Carolina at 2*d.*, 3*d.*, and 4*d.* Coffee was put at 5*s.* per cwt. in Maryland and at 3*s.* in South Carolina; bohea tea, at 2*d.* and 4*d.* per pound respectively. No other common ground exists except the unenumerated articles, which were rated at 2 per cent. in Maryland, and 2½ per cent. in South Carolina. South Carolina passed a new act in 1787, and in the same year Virginia enacted one of the most comprehensive and detailed tariffs of the time.<sup>1</sup> Here again are only accidental similarities. Among the few enumerated articles common to the two lists are the following: Rum and spirits of various kinds, 1*d.*, 3*d.*, and 4*d.* per gallon in South Carolina; 1*s.*, in Virginia. Malt liquors, 1½*d.* per gallon in South Carolina; beer, ale, and porter, 9*d.* in Virginia. British refined sugar, 1½*d.* per pound, and other refined sugar, ½*d.* per pound in South Carolina; all loaf sugar, 3*d.* in Virginia. Bohea tea, 4*d.* in South Carolina; 1*s.* in Virginia. Coaches, chariots, and post-chaises were taxed 10 per cent. in South Carolina, £20 in Virginia; clocks, 10 per cent. in South Carolina, £5 in Virginia. These tedious comparisons might be carried to any length, but would only fortify the conclusion that although the impost resolution of 1783 did, perhaps, set going a tendency toward an agreement in the enumeration of articles, the rates were still determined by considerations purely local, and were, in consequence, as inharmonious as ever.

But it must not be thought here, any more than in the field of tonnage duties, that equivalent rates are nowhere to be found. Virginia's export duty on tobacco was for several years after 1669 2*s.* per hogshead, and in 1671 the adjoining colony of Maryland fixed upon the same amount.<sup>2</sup> Again, for about fifteen years after 1690 the import duty on spirits was 4*d.* per gallon in both these colonies<sup>3</sup>; at

<sup>1</sup> Cooper's "St. of S. C.," v., 8; Hening's "St. of Va." xii., 412.

<sup>2</sup> Hening's "St. of Va.," ii., 272. Bacon's "Laws of Md.," c. 11 of April, 1671.

<sup>3</sup> Hening's "St. of Va.," iii., 88. Bacon's "Laws of Md.," c. 20 of June, 1692.

about 1680 the tonnage of Massachusetts and of Rhode Island coincided at 12*d.*; within a very short time of each other, New Jersey and Delaware put a charge of £5 per capita on imported convicts. Any number of such petty instances which might be sought out would in themselves be of little significance. They might reasonably be attributed to chance, were it not that intentional concert in some minor matters is clearly made out.

How much, or rather how little of intercolonial courtesy pervades the acts is most forcibly shown by an examination of the discriminations in the duties. Aside from the exemptions or abatements which each colony extended to British merchants<sup>1</sup> and to its own citizens, there are instances of similar favors to Americans in general and to foreigners. In 1665 Virginia, finding that her high duties were driving New England vessels to Maryland, opened her ports to American bottoms on the same terms of freedom previously enjoyed by Englishmen and Virginians.<sup>2</sup> Two years later Virginia returned to Maryland the same total exemption from export duty on tobacco which she, in common with England and Ireland, had from the first received at the hands of her northern neighbor.<sup>3</sup> In the next century special concessions, intended to increase the trade in liquors and tobacco with the West Indies, were granted to the traders of those inlands.<sup>4</sup> The dependent situation of New Jersey induced her to make frequent petty exceptions in favor of her commercial neighbors New York and Pennsylvania.<sup>5</sup> Instances of unfriendly discriminations are also found. During the early part of the eighteenth century, while the boundary dispute of Pennsylvania and Maryland was hot, Maryland undertook by embargoes and threefold duties to cut off her inland trade to the north-

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<sup>1</sup> Henning's "St. of Va.," i., 469, 536; iii., 229; etc. "Laws of N. C.," 155. Bacon's "Laws of Md.," c. 2 of March, 1638, Etc.

<sup>2</sup> Henning's "St. of Va.," ii., 218. But this concession appears to have been but temporary.

<sup>3</sup> Henning's "St. of Va.," ii., 259.

<sup>4</sup> Henning's "St. of Va.," iii., 229; vi., 471; ix., 547.

<sup>5</sup> "Acts of Gen. Assy. of N. J. I.," 215, 445; II., 378, 381, 450.

ward.<sup>1</sup> From these and other provisions, for the most part equally narrow and selfish, it is seen that until the Revolution any thing like a continental spirit was unknown to the American systems.

When, however, the colonies became independent states, and the Federal sentiment began to grow, there were more of discriminations in favor of the United States and her allies.<sup>2</sup> One particular form of discrimination whereby the rate of import or export duties was made to depend upon the nationality of the carrying bottom, came to be customary in some of the leading states, even at the same time with discriminations in tonnage<sup>3</sup>; and this same device was adopted by the Federal Congress in 1789 to coerce unfriendly powers.

The rates of the colonial tariffs, in comparison with those of the present, or even with those of 1789, were almost nominal. The usual rate of import duties in Virginia was: on slaves, 5 per cent. or 10 per cent.; on malt liquors, 1*d.* per gallon; on other liquors, 3*d.* to 4*d.*; tonnage, 15*d.* Other colonies had still lower rates. In 1645 Massachusetts laid 10*s.* per butt, or about 1*d.* per gallon on sack, and 2½*s.* per hogshead, or about half as much, on French wines<sup>4</sup>; and a few years later nearly the same amounts on other liquors. Even after these rates were doubled,<sup>5</sup> they were still low. It was, however, the general ad valorem rate that covered the great mass of imports, and this was also very low. It stood in Virginia at different times at 2½ per cent., 1 per cent., and 2½ per cent.; in Massachusetts at 2 per cent.; in Rhode Island, 2½ per cent.; in South Carolina, 3 per cent., 5 per cent., 1 per cent., 2½ per cent., and 3 per

<sup>1</sup> Bacon's "Laws of Md.," cc. 30 and 43 of October, 1704; c. 18 of June, 1715.

<sup>2</sup> Henning's "St. of Va.," xii., 289, 290, 304, 514. "Rec. of R. I.," x., 106. Cooper's "St. of S. C.," iv., 576, 607; v., 8. Acts of the General Assembly of the Commonwealth of Pennsylvania carefully compared with the originals, 422.

<sup>3</sup> Henning's "St. of Va.," xii., 290, 304. "Rec. of R. I.," x., 106. Hanson's "Laws of Md.," c. 29 of November, 1783; c. 84 of November, 1784. Also Cooper's "St. of S. C.," iii., 56, and "Rec. of Penn.," ii., 234.

<sup>4</sup> "Rec. of Mass.," ii., 130, 247.

<sup>5</sup> "Rec. of Mass.," v., 138.



cent.; in Connecticut, 5 per cent.; in Maryland, 2 per cent.; in Pennsylvania, 1 per cent. To these easy rates there were, it is true, exceptions, notably as to slaves and horses, and, in times of financial need, other imports.<sup>1</sup> Moreover, in the state period there was a general increase; but the state duties were still so low<sup>2</sup> that when the change to what we now consider the very moderate tariff of 1789 was under discussion, fears were constantly expressed in Congress that so great and sudden a rise might tempt the Americans to smuggle.

How small was the product of such duties can in some cases be learned from the colonial records. In 1641 the "customs" receipts of England were £500,000.<sup>3</sup> Seven years later the duties of Massachusetts were farmed for £120 per year; in 1652 they were relet for a term of years at £165 per year, but the farmer soon asked to be relieved from his bargain. After the general tariff of 1668 went into effect, there was so great an increase in the revenue that in 1672 it was not necessary to collect any direct tax.<sup>4</sup> In South Carolina the legislature in 1721 estimated the customs at £7,995, and by 1754 they had grown to £9,645, or one seventh part of the expenses of government.<sup>5</sup> The Governor of Virginia was in 1660 allowed 60,000 pounds of tobacco in place of the castle duties for the year.<sup>6</sup> Just before the ratification of the Federal Constitution the customs revenues of the three states of Massachusetts, New York, and Pennsylvania were estimated at £160,000 to £180,000 per year.<sup>7</sup>

Another respect wherein the past differed from the present is in the short duration of the colonial acts. Following

<sup>1</sup> Hening's "St. of Va.," vi., 124. Cooper's "St. of S. C.," ii., 164; iv., 327. The specific duties, it will be remembered, are not to be measured against the higher prices of the present.

<sup>2</sup> According to No. XII. of the *Federalist*, in no State more than 3 per cent.

<sup>3</sup> Macpherson's "Annals of Commerce, Manufactures, Fisheries and Navigation," ii., 415.

<sup>4</sup> "Rec. of Mass.," iii., 142, 401; iv., part 2, 534.

<sup>5</sup> Cooper's "St. of S. C.," iii., 149; iv., 10.

<sup>6</sup> Hening's "St. of Va.," ii., 9. Equals about £300; Hening's "St. of Va.," ii., 222,

<sup>7</sup> Elliot's "Debates," ii., 193.

a precedent set by the Parliament in many customs acts, the colonial tariffs were not enacted to stand for a long term of years or until repealed, but for one, two, three, or at most four years, and, in the formula of the times, "thereafter until the end of the next session of the Assembly." There were, however, occasionally, permanent acts, and on the other hand many for even briefer terms.

Regularly in the temporary acts, and very often also in those of longer duration, there were specified objects to which the resulting revenues should be applied. This practice, for which there was abundant precedent in English usage, was scarcely less prevalent in connection with other duties than with tonnage.<sup>1</sup> As late as 1783 Representative Lee of Virginia, declared in Congress that distinct and specific appropriations of distinct revenue was the only true system of finance.<sup>2</sup> Congress had, therefore, a double reason,—the previous practice and the jealousy of the states,—for pledging the expected products of the imposts of 1781 and 1783 to the payment of the war debt.

Many phases of this early legislative history would repay a more careful examination. It is interesting to note the increasing complexity of the laws. Laws of any kind made for communities as small as the early settlements would at first be short and expressed in simple terms. But as the settlements spread, and the colonies began to touch each other, tariff laws, like all others, became more elaborate, changed ad valorem to specific duties, and in a score of ways took on new features. Slavery, it would be found, although recognized by taxation, was from the first burdened both with direct taxes and with the heaviest duties of the time. As the sentiments of the people grew more refined, and were not yet repressed by an increased profit in slavery, restrictions on the slave-trade were multiplied, until in 1788 only the three states of Georgia, South

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<sup>1</sup> Hening's "St. of Va.," iii., 173; v., 310; vi., 417. Cooper's "St. of S. C.," iii., 23; iv., 257. "Laws of N. C.," 342. Bacon's "Laws of Md.," c. 9 of May, 1695; c. 19 of August, 1729; c. 31 of August, 1732. "Rec. of Penn.," viii., 101.

<sup>2</sup> "Madison Papers," i., 345.

Carolina, and North Carolina permitted the importation of negroes. And of these North Carolina had substantially forbidden the trade; while South Carolina had years before levied a duty of £100 per head, "in order totally to prevent the importation of slaves." Salt, liquor, tobacco, skins, and furs, each undergo an interesting course of treatment at the hands of the early legislators. Protectionism, too, is seen to have arisen, not after the war of 1812, as some have asserted, nor yet as late as 1789. On the contrary, this doctrine may be traced back before the Revolution, and in the period between the close of the war and the organization of the Federal Government it was more than once as explicitly avowed as language permitted.<sup>1</sup>

It is impossible briefly to summarize the whole matter of colonial and state trade legislation, unless it be by the one word "confusion." Such a system of temporary and specifically appropriated duties carried on in each of a dozen centres of local authority naturally resulted in an enormous amount of legislation. The thirteen colonies give in the aggregate over a thousand years of law-making, and years made especially active in trade regulation by the example of the mother country, by real or fancied conflicts of interest, and by the current belief that foreign trade, if properly directed, was the great source of national prosperity. Each new object of expenditure called for new action, in which the legislator looked only to his own colony and the present need. Not only, therefore, were the regulations very numerous, but they were without unity and harmony. There are, it is true, instances of equality in rates; necessarily, too, certain common tendencies toward higher rates and toward greater explicitness in the provisions; even some few feeble attempts at agree-

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<sup>1</sup> "Life and Works of John Adams, second President of the United States," (10 vols., Boston, 1856), viii., 340, 355; "Madison Papers," iii., 1445; Elliot's "Debates," ii., 57-59, 139; "Writings of Jas. Madison," iii., 43, 160; *Continentalist*, No. iv.; "Rec. of R. I.," x., 48, 89, 115; "Laws of the Commonwealth of Pennsylvania," from Oct. 14, 1700, to March 20, 1810 (4 vols., Philadelphia, 1810), vol. ii.; "Annals of 1st Congress," i., debates on the tariff of 1789; see also *Quar. Jour. of Ec.*, ii., 473 ff.

ment; but all this meant little. The first real advance toward a continental tariff was not made until Congress so persistently pressed the impost resolutions of 1781 and 1783 upon the attention of the states. Even then progress was extremely slow.<sup>1</sup> Compromise and union in this matter, as in so many others, was a later outcome of the desperate condition in which the states found themselves in 1787.

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<sup>1</sup> See John Fiske's "A Critical Period of American History," pp. 142 ff. and 218-220.



MUSEUM-HISTORY AND MUSEUMS OF  
HISTORY



## MUSEUM-HISTORY AND MUSEUMS OF HISTORY.

By G. BROWN GOODE, LL.D., Assistant Secretary of the Smithsonian Institution in charge of the National Museum.

The true significance of the word *MUSEUM* may perhaps best be brought to our apprehension by an allusion to the ages which preceded its origin—when our ancestors, hundreds of generations removed, were in the midst of those great migrations which peopled Europe with races originally seated farther to the east.

It has been well said that the story of early Greece is the first chapter in the history of the political and intellectual life of Europe.

To the history of Greece let us go for the origin of the museum-idea, which in its present form seems to have found its only congenial home among the European off-shoots of the Indo-Germanic division of the world's inhabitants.

Museums, in the language of ancient Greece, were the homes of the muses. The first were in the groves of Parnassus and Helicon, and later they were temples in various parts of Hellas. Soon, however, the meaning of the word changed, and it was used to describe a place of study, or a school. Athenæus described Athens in the second century as "the museum of Greece," and the name of museum was definitely applied to that portion of the palace of Alexandria which was set apart for the study of the sciences, and which contained the famous Alexandrian library. The museum of Alexandria was a great university, the abiding-place of men of science and letters, who were divided into many companies or colleges, and for whose support a handsome revenue was allotted.



The Alexandrian museum was destroyed in the days of Cæsar and Aurelian, and the term museum, as applied to a great public institution, dropped out of use from the fourth to the seventeenth century. The disappearance of a word is an indication that the idea for which it stood has also fallen into disfavor; and such, indeed, was the fact. The history of museum and library run in parallel lines. It is not until the development of the arts and sciences has taken place, until an extensive written literature has grown up, and a distinct literary and scientific class has been developed, that it is possible for the modern library and museum to come into existence. The museum of the present is more dissimilar to its old-time representative than is our library to its prototype.

There were in the remote past galleries of pictures and sculpture, as well as so-called museums. Public collections of paintings and statuary were founded in Greece and Rome at a very early day. There was a gallery of paintings (*Pina-cotheca*) in one of the marble halls of the Propylæum at Athens, and in Rome there were lavish public displays of works of art. M. Dezobry, in his "*Rome in the time of Augustus*," has described this phase of Latin civilization in the first century before Christ :

"For many years," remarks one of his characters, "the taste for paintings has been extending in a most extraordinary manner. In former times they were only to be found in the temples, where they were placed less for purposes of ornament than as an act of homage to the gods; now they are everywhere, not only in temples, in private houses, and in public halls, but also on outside walls, exposed freely to air and sunlight. Rome is one great picture-gallery; the Forum of Augustus is gorgeous with paintings, and they may be seen also in the Forum of Cæsar, in the Roman Forum, under the peristyles of many of the temples, and especially in the porticos used for public promenades, some of which are literally filled with them. Thus everybody is enabled to enjoy them, and to enjoy them at all hours of the day."

The public men of Rome, at a later period in its history, were no less mindful of the claims of art. They believed that the metropolis of a great nation should be adorned with all the best products of civilization. We are told by Pliny that when Cæsar was dictator he purchased, for 300,000 deniers, two Greek paintings, which he caused to be

publicly displayed, and that Agrippa placed many costly works of art in a hall which he built and bequeathed to the Roman people. Constantine gathered together in Constantinople the paintings and sculptures of the great masters, so that the city, before its destruction, became a great museum, like Rome.

The taste for works of art was generally prevalent throughout the whole Mediterranean region in the days of the ancient civilizations, and there is abundant reason to believe that there were prototypes of the modern museum in Persia, Assyria, Babylonia, and Egypt, as well as in Rome. Collections in natural history also undoubtedly existed, though we have no positive descriptions of them. Natural curiosities, of course, found their way into the private collections of monarchs, and were doubtless also in use for study among the savants in the Alexandrian museum. Aristotle, in the fourth century before Christ, had, it is said, an enormous grant of money for use in his scientific researches, and Alexander the Great, his patron, "took care to send to him a great variety of zoölogical specimens, collected in the countries which he had subdued," and also "placed at his disposal several thousand persons, who were occupied in hunting, fishing, and making the observations which were necessary for completing his 'History of Animals.'" If human nature has not changed more than we suppose, Aristotle must have had a great museum of natural history.

When the Roman capital was removed to Byzantium the arts and letters of Europe began to decline. The Church was unpropitious, and the invasions of the northern barbarians destroyed every thing. In 476, with the close of the Western Empire, began a period of intellectual torpidity which was to last for a thousand years.

It was in Bagdad and Cordova that science and letters were next to be revived, and Africa was to surpass Europe in the extent of its libraries. In the *Periplus*, or "Voyage of Hanno," occurs the following passage in regard to specimens of Gorillas, or "Gorgones":

"Pursuing them, we were not able to take the men (males); they all escaped, being able to climb the precipices, and defended themselves with pieces of rock. But three women (females), who bit and scratched those who led them, were not willing to follow. However, having killed them, we flayed them, and conveyed the skins to Carthage; for we did not sail any further, as provisions began to fail."<sup>1</sup>

With the Renaissance came a period of new life for collectors. The churches of southern Europe became art galleries, and monarchs and noblemen and ecclesiastical dignitaries collected books, manuscripts, sculptures, pottery, and gems, forming the beginning of collections which have since grown into public museums. Some of these collections doubtless had their first beginnings in the midst of the dark ages, within the walls of feudal castles, or the larger monasteries, but their number was small, and they must have consisted chiefly of those objects so nearly akin to literature as especially to command the attention of bookish men.

As soon as it became the fashion for the powerful and the wealthy to possess collections, the scope of their collections began to extend, and objects were gathered on account of their rarity or grotesqueness, as well as for their beauty or instructiveness. Flourens, in his "Life and Works of Blumenbach," remarks: "The old Germany, with its old chateaux, seemed to pay no homage to science; still the lords of these ancient and noble mansions had long since made it a business, and almost a point of honor, to form with care what were called Cabinets of Curiosities."

To the apothecary of old, with his shop crowded with the curious substances used in the medical practice of his day, the museum owes some of its elements, just as the modern botanic garden owes its earliest history to the "Physic Garden," which in its time was an outgrowth of the apothecary's garden of simples. The Apothecary in "Romeo and Juliet"—

"In whose needy shop a tortoise hung,  
An alligator stuff'd, and other skins  
Of eel-shaped fishes,"—

was the precursor of the modern museum-keeper. In the hostelrys and taverns, the gathering-places of the people

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<sup>1</sup> OWEN, Trans. Zool. Soc., London, v., p. 266, foot-note.

in the sixteenth and seventeenth centuries, there grew up little museums of curiosities from foreign lands, while in the great fairs were always exhibited sundry gatherings of strange and entertaining objects.

At the middle of the last century there appear to have been several such collections of curiosities in Britain.

In Artedi's ichthyological works there are numerous references to places where he had seen American fishes, especially at Spring Garden (later known as the Vauxhall Garden, a famous place of resort), and at the "Nag's Head," and the "White Bear," and the Green Dragon in Stepney, in those days a famous hostelry in London. He speaks also of collections at the houses of Mr. Lillia and in that of Master Saltero (the barber-virtuoso, described by Bulwer in his "Devereux"), in Chelsea and at Stratford, and also in the collection of Seba, in Amsterdam, and in that of Hans Sloane.

With the exception of "*the monk* or *Angel-fish, Anglis, aliis Mermaid-fish,*" probably a species of *Squatina*, which he saw at the Nag's Head, all the fishes in these London collections belonged to the order Plectognathi.

Josselyn, in his "Two Voyages to New England" (1638-73), after telling us how a Piscataway colonist had the fortune to kill a Pilhannaw—the king of the birds of prey—continues, "How he disposed of her I know not, but had he taken her alive and sent her over into England, neither Bartholomew or Sturbridge Fair could have produced such another sight."

Shakespeare's mirror strongly reflects the spirit of the day. When Trinculo, cast ashore upon a lonesome island, catches a glimpse of Caliban, he exclaims :

"What have we here? A man or a fish? Dead or alive? A fish : he smells like a fish ; a very ancient and fish-like smell. . . . A strange fish ! Were I in England now, as once I was, and had but this fish painted, not a holiday fool there but would give a piece of silver ; there would this monster make a man ; any strange beast there makes a man ; when they will not give a doit to relieve a lame beggar, they will lay out ten to see a dead Indian."

The idea of a great national museum of science and art was first worked out by Lord Bacon in his "New Atlantis," a philosophical romance published at the close of the

seventeenth century. The first scientific museum actually founded was that begun at Oxford in 1667, by Elias Ashmole, still known as the Ashmolean Museum, composed chiefly of natural-history specimens, collected by the botanists Tradescant, father and son, in Virginia, and in the north of Africa. Soon after, in 1753, the British Museum was established by act of Parliament, inspired by the will of Sir Hans Sloane, who, dying in 1749, left to the nation his invaluable collection of books, manuscripts, and curiosities.<sup>1</sup>

Many of the great national museums of Europe had their origin in the private collections of monarchs. France claims the honor of having been the first to change a royal into a national museum, when, in 1789, the Louvre came into the possession of a republican government. It is very clear, however, that democratic England, by its action in 1753, stands several decades in advance,—its act, moreover, being one of deliberate founding rather than a species of conquest.

The first chapter in the history of American museums is short. In colonial days there were none. In the early years of the Republic, the establishment of such institu-

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<sup>1</sup> The collections of Sloane, who was one of the early scientific explorers of America, were like those of the Tradescant's, contained many New-World specimens, and the British Museum as well as the Ashmolean was built around a nucleus of American material. Indeed, we cannot doubt that interest in American exploration had largely to do with the development of natural history museums.

In those days all Europe was anxious to hear of the wonders of the new-found continent, and to see the strange objects which explorers might be able to bring back with them, and monarchs sought eagerly to secure novelties in the shape of animals and plants.

Columbus was charged by Queen Isabella to collect birds, and it is recorded that he took back to Spain the skins of several kinds of animals. Even to this day may be seen, in the old collegiate church in Siena, a votive offering, placed there nearly four centuries ago by the discoverer of America. It consists of the armor worn by him when he first stepped upon the soil of the New World, and the rostrum of a swordfish killed on the American coast.

The state papers of Great Britain contain many entries of interest in this connection. King James I. was an enthusiastic collector. December 15, 1609, Lord Southampton wrote to Lord Salisbury that he had told the King about Virginia squirrels brought into England, which were said to fly. The King

tions by city, State, or Federal government would not have been considered a legitimate act. When the general government came into the possession of extensive collections as the result of the Wilkes Exploring Expedition in 1842, they were placed in charge of a private organization, the National Institution, and later, together with other similar materials, in that of a corporation, the Smithsonian Institution, which was for a long period of years obliged to pay largely for their care out of its income from a private endowment. It was not until 1876, however, that the existence of a *National Museum*, as such, was definitely recognized in the proceedings of Congress, and its financial support fully provided for.

In early days, however, our principal cities had each a public museum, founded and supported by private enterprise. The earliest general collection was that formed at Norwalk, Connecticut, prior to the Revolution, by a man named Arnold, described as "a curious collection of American birds and insects." This it was which first awakened the interest of President Adams in the natural sciences. He visited it several times as he travelled from Boston to

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very earnestly asked if none were provided for him—whether Salisbury had none for him—and said he was sure Salisbury would get him one. The writer apologises for troubling Lord Salisbury, "but" continued he, "you know so well how he (the king) is affected to such toys."

Charles I. appears to have been equally curious in such matters. In 1637 he sent John Tradescant, the younger, to Virginia "to gather all rarities of flowers, plants, and shells."

In 1625 we find Tradescant writing to one Nicholas that it is the Duke of Buckingham's pleasure that he should deal with all merchants from all places, but especially from Virginia, Bermuda, Newfoundland, Guinea, the Amazons, and the East Indies for all manner of rare beasts, fowls and birds, shells and shining stones, etc.

In the Domestic Correspondence of Charles I. in another place, July, 1625, is a "Note of things desired from Guinea, for which letters are to be written to the merchants of the Guinea Company." Among other items referred to are "an elephant's head, with the teeth very large; a river-horse's head; strange sorts of fowls; birds' and fishes' skins; great flying and sucking fishes; all sorts of serpents; dried fruits, shining stones, etc." Still further on is a note of one Jeremy Blackman's charge—in all, £20—for transporting four deer from Virginia, including corn and a place made of wood for them to lie in.

Philadelphia, and his interest culminated in the foundation of the American Academy of Arts and Sciences.<sup>1</sup> In 1790 Dr. Hosack brought to America from Europe the first cabinet of minerals ever seen on this continent.

The earliest public establishment, however, was the "Philadelphia Museum," established by Charles Wilson Peale in 1785, which had for a nucleus a stuffed paddle-fish and the bones of a mammoth, and which was for a time housed in the building of the American Philosophical Society. In 1800 it was full of popular attractions.

"There were a mammoth's tooth from the Ohio, and a woman's shoe from Canton; nests of the kind used to make soup of, and a Chinese fan six feet long; bits of asbestos, belts of wampum, stuffed birds and feathers from the Friendly Islands, scalps, tomahawks, and long lines of portraits of great men of the Revolutionary War. To visit the museum, to wander through the rooms, play upon the organ, examine the rude electrical machine, and have a profile drawn by the physiognomist, were pleasures from which no stranger to the city ever refrained."

Dr. Hare's oxyhydrogen blow-pipe was shown in this museum by Mr. Rubens Peale as early as 1810.

The Baltimore Museum was managed by Rembrandt Peale, and was in existence as early as 1815 and as late as 1830.

Earlier efforts were made, however, in Philadelphia. Dr. Chovet, of that city, had a collection of wax anatomical models made by him in Europe, and Prof. John Morgan, of the University of Pennsylvania, who learned his methods from the Hunters in London and Sué in Paris, was also forming such a collection before the Revolution.

The Columbian Museum and Turrell's Museum, in Boston, are spoken of in the annals of the day, and there was a small collection in the attic of the State House in Hartford.

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<sup>1</sup> "This collection," we are told, "was sold to Sir Ashton Lever, in whose apartments in London Mr. Adams saw it again, and felt a new regret at our imperfect knowledge of the productions of the three kingdoms of nature in our land. In France his visits to the museums and other establishments, with the inquiries of Academicians and other men of science and letters respecting this country, and their encomiums on the Philosophical Society of Philadelphia, suggested to him the idea of engaging his native State to do something in the same good but neglected cause."—KIRTLAND, *Mem. American Academy of Sciences*, Boston, I., xxii.

The Western Museum, in Cincinnati, was founded about 1815, by Robert Best, M.D., afterwards of Lexington, Ky., who seems to have been a capable collector, and who contributed matter to Godman's "American Natural History." In 1818 a society styled the "Western Museum Society" was organized among the citizens, which, though scarcely a scientific organization, seems to have taken a somewhat liberal and public-spirited view of what a museum should be. With the establishment of the Academy of Natural Sciences in Philadelphia in 1812, and the New York Lyceum of Natural History, the history of American scientific museums had its true beginning.

The intellectual life of America is so closely allied to that of England, that the revival of interest in museums, and in popular education at the middle of the present century is especially significant to us. The great Exhibition of 1851 was one of the most striking features of the industrial revolution in England, that great transformation which, following closely upon the introduction of railroads, turned England feudal and agricultural, into England democratic and commercial.

The great Exhibition marked an epoch in the intellectual progress of English-speaking people. "The great Exhibition," writes a popular novelist, and a social philosopher as well, "did one great service for country people: it taught them how easy it is to get to London, and what a mine of wealth, especially for after-memory and purposes of conversation, exists in that great place."

Under the wise administration of the South Kensington staff a great system of educational museums has been developed all through the United Kingdom.

Our own Centennial Exhibition in 1876 was almost as great a revelation to the people of the United States. The thoughts of the country were opened to many things before undreamed of. One thing we may regret—that we have no such widespread system of museums as that which has developed in the motherland with South Kensington as its administrative centre. England has had nearly forty years



however, and we but thirteen, since our Exhibition. May we not hope that within a like period of time, and before the year 1914, the United States may have attained the position which England now occupies, at least in the respects of popular interest and substantial governmental support? There are now over one hundred and fifty public museums in the United Kingdom, all active and useful.

The museum systems of Great Britain are, it seems to me, much closer to the ideal which America should follow, than are those of either France or Germany. They are designed more thoughtfully to meet the needs of the people, and are more intimately intertwined with the policy of national popular education.

Sir Henry Cole, the working founder of the "Department of Science and Art," speaking of the purpose of the museums under his care, said to the people of Birmingham in 1874:

"If you wish your schools of Science and Art to be effective, your health, the air, and your food to be wholesome, your life to be long, your manufactures to improve, your trade to increase, and your people to be civilized, you must have Museums of Science and Art, *to illustrate the principles of life, health, nature, science, art and beauty.*"

Again, in words as applicable to Americans of to-day as to Britons in 1874, said he:

"A thorough education, and a knowledge of science and art are vital to the nation, and to the place it holds at present in the civilized world. Science and art are the life-blood of successful production. All civilized nations are running a race with us, and our national decline will date from the period when we go to sleep over the work of education, science, and art. What has been done is at the mere threshold of the work yet to be done."

The people's museum should be much more than a house full of specimens in glass cases. It should be a house full of ideas, arranged with the strictest attention to system. I once tried to express this thought by saying: "*An efficient educational museum may be described as a collection of instructive labels, each illustrated by a well selected specimen.*"

The museum, let me add, should be more than a collection of specimens, well arranged and well labelled. Like

the library it should be under the constant supervision of one or more men, well informed, scholarly, and withal practical, and fitted by tastes and training to aid in the educational work. I should not organize the museums primarily for the use of people in their larval or school-going stage of existence. The public school-teacher, with the illustrated text-books, diagrams, and other appliances, has in these days a professional outfit which is usually quite sufficient to enable him to teach his pupils.

School-days last at the most only from four to fifteen years, and they end, with the majority of mankind, before their minds have reached the stage of growth most favorable for the reception and assimilation of the best and most useful thought. Why should we be crammed in the time of infancy and kept in a state of mental starvation during the period which follows, from maturity to old age—a state which is disheartening and unnatural all the more because of the intellectual tastes which have been stimulated and partially formed by school life?

The museum-idea is much broader than it was fifty or even twenty-five years ago. The museum of to-day is no longer a chance assemblage of curiosities, but rather a series of objects selected with reference to their value to investigators, or their possibilities for public enlightenment. The museum of the future may be made one of the chief agencies of the higher civilization.

I hope that the time will come when every town shall have both its public museum and its public library, each with a staff of competent men, mutually helpful, and contributing largely to the intellectual life of the community.

The museum of the future in this democratic land should be adapted to the needs of the mechanic, the factory operator, the day-laborer, the salesman, and the clerk, as much as to those of the professional man and the man of leisure. It is proper that there be laboratories and professional libraries for the development of the experts who are to organize, arrange, and explain the museums.

It is proper that laboratories be utilized to the full-

est extent for the credit of the institution to which they belong. No museum can do good and be respected which does not each year give additional proofs of its claims to be considered a centre of learning. On the other hand, the public have a right to ask that much shall be done directly in their interest. They will gladly allow the museum officer to use part of his time in study and experiment. They will take pride in the possession by the museum of tens of thousands of specimens, interesting only to the specialist, hidden away perpetually from public view, but necessary for proper scientific research. They are the foundations of the intellectual superstructure which gives to the institution its proper standing.

Still no pains must be spared in the presentation of the material in the exhibition halls. The specimens must be prepared in the most careful and artistic manner, and arranged attractively in well designed cases and behind the clearest of glass. Each object must bear a label giving its name and history so fully that all the probable questions of the visitor are answered in advance. Books of reference must be kept in convenient places. Colors of walls, cases, and labels must be restful and quiet, and comfortable seats must be everywhere accessible, for the task of the museum visitor is a weary one at best.

All intellectual work may be divided into two classes, the one tending toward the increase of knowledge, the other toward its diffusion; the one toward investigation and discovery, the other toward the education of the people and the application of known facts to promoting their material welfare. The efforts of learned men and of institutions of learning are sometimes applied solely to one of these departments of effort,—sometimes to both, and it is generally admitted, by the most advanced teachers, that, for their students as well as for themselves, the happiest results are reached by carrying on investigation and instruction simultaneously. Still more is this true of institutions of learning. The college which imparts only second-hand knowledge to its students belongs to a period in the history of education which is fast being left behind.

The museum must, in order to perform its proper functions, contribute to the advancement of learning, through the increase as well as through the diffusion of knowledge.

We speak of "educational" museums and of the "educational" method of installation so frequently that there may be danger of inconsistency in the use of the term. An educational museum, as it is usually spoken of, is one in which an attempt is made to teach the unprofessional visitor of an institution for popular education, by means of labelled collections, and it may be, also, by popular lectures. A college museum, although used as an aid to advanced instruction, is not an "educational museum" in the ordinary sense, nor does a museum of research, like the Museum of Comparative Zoölogy at Cambridge, Massachusetts, belong to this class, although, to a limited extent, it attempts and performs popular educational work in addition to its other functions.

In the National Museum in Washington the collections are divided into two great classes: the exhibition series, which constitutes the educational portion of the museum, and is exposed to public view, with all possible accessories for public entertainment and instruction; and the study series, which is kept in the scientific laboratories, and is rarely examined except by professional investigators.

In every properly conducted museum the collections must, from the very beginning, divide themselves into these two classes, and in planning for its administration, provision should be made, not only for the exhibition of objects in glass cases, but for the preservation of large collections not available for exhibition, to be used for the studies of a very limited number of specialists. Lord Bacon, who, as we have noticed, was the first to whom occurred the idea of a great museum of science and art, complains thus, centuries ago, in his book "On the Advancement of Learning," that up to that time the means for intellectual progress had been used exclusively for "amusement" and "teaching," and not for the "augmentation of science."

The boundary line between the library and the museum is neither straight nor plain. The former, if its scope be

rightly indicated by its name, is, primarily, a place for books. The latter is a depository for objects of every kind, books not excepted. The British Museum, with its libraries, its pictures, its archæological galleries, its anthropological, geological, botanical, and zoölogical collections, is an example of the most comprehensive interpretation of the term. Professor Huxley has described the museum as "a consultative library of objects." This definition is suggestive but unsatisfactory. It relates only to the contents of the museum as distinguished from those of the library, and makes no reference to the differences in the methods of their administration.

The treasures of the library must be examined one at a time, and by one person at a time. Their use requires long-continued attention, and their removal from their proper places in the system of arrangement. Those of the museums are displayed to public view in groups, in systematic sequence, so that they have a collective as well as an individual significance. Furthermore, much of their meaning may be read at a glance. The museum cultivates the powers of observation, and the casual visitor even makes discoveries for himself, and, under the guidance of the labels, forms his own impressions. In the library one studies the impressions of others.

The library is most useful to the educated; the museum to educated and uneducated alike, to the masses as well as to the few, and is a powerful stimulant to intellectual activity in either class.

The influence of the museum upon a community is not so deep as that of the library, but extends to a much larger number of people. The National Museum in Washington has 300,000 visitors a year, each of whom carries away a certain number of new thoughts.

The two ideas may be carried out, side by side, in the same building, and, if need be, under the same management, not only without antagonism, but with advantage. That the proximity of a good library is absolutely essential to the influence of a museum, will be admitted by every

one. I am confident, also, that a museum wisely organized and properly arranged is certain to benefit the library near which it stands in many ways, and more positively than through its power to stimulate interest in books, and thus to increase the general popularity of the library and to enlarge its endowment.

Many books and valuable ones would be required in this best kind of museum work, but it is not intended to enter into competition with the library. When necessary, volumes might be duplicated. It is very often the case, however, that books are more useful and safer in the museum than on the library shelves,—for in the museum they may be seen daily by thousands, while in the library their very existence is forgotten by all except their custodian.

Audubon's "Birds of North America" is a book which every one has heard of and which every one wants to see at least once in his lifetime. In a library, it probably is not examined by ten persons in a year. In a museum, if the volume were exposed to view in a glass case, a few of the most striking plates detached, framed, and hung upon the wall near at hand, it will teach a lesson to every passer-by.

The library may be called upon for aid by the museum in many directions. Pictures are often better than specimens to illustrate certain ideas. The races of man and their distribution can only be shown by pictures and maps. Atlases of ethnological portraits and maps are out of place in a library if there is a museum near by in which they can be displayed. They are not even members of the class described by Lamb as "books which are not books." They are not books, but museum specimens, masquerading in the dress of books.

In selecting courses for the development of a museum, it may be useful to consider what are the fields open to museum work. As a matter of convenience museums are commonly classed in two groups—those of science and those of art, and in Great Britain the great national system is mainly under the control of "The Science and Art Department of the Committee of Council on Education."

This classification is not entirely satisfactory, since it is based upon methods of arrangement, rather than upon the nature of the objects to be arranged, and since it leaves in a middle territory (only partially occupied by the English museum men of either department), a great mass of museum material, of the greatest moment, both in regard to its interest and its adaptability for purposes of public instruction.

On the one side stand the natural-history collections, undoubtedly best to be administered by the geologist, botanist, and zoölogist. On the other side are the fine-art collections, best to be arranged, from an æsthetic standpoint, by artists. Between is a territory which no English word can adequately describe—which the Germans call *Culturgeschichte*—the natural history of civilization, of man and his ideas and achievements. The museums of science and art have not yet learned how to partition this territory.

An exact classification of museums is not at present practicable, nor will it be until there has been some redistribution of the collections which they contain. It may be instructive, however, to pass in review the principal museums of the world, indicating briefly their chief characteristics.

Every great nation has its museum of natural history. The Natural History Department of the British Museum, recently removed from the heart of London to palatial quarters in South Kensington, is probably the most extensive,—with its three great divisions, Zoölogical, Botanical, and Geological.

The historian and the naturalist have met upon common ground in the field of anthropology. The anthropologist is, in most cases, historian as well as naturalist; while the historian of to-day is always in some degree an anthropologist, and makes use of many of the methods at one time peculiar to the natural sciences. The museum is no less essential to the study of anthropology than to that of natural history. The library formerly afforded to the historian all necessary opportunities for work. It would seem from the wording

of the new charter of the American Historical Association that its members consider a museum to be one of its legitimate agencies.

Your Secretary has invited me to say something about the possibilities of utilizing museum methods for the promotion of historical studies. This I do with much hesitation, and I hope that my remarks may be considered as suggestions rather than as expressions of definite opinion. The art of museum administration is still in its infancy, and no attempt has yet been made to apply it systematically to the development of a museum of history. Experiment is as yet the museum-administrator's only guide, and he often finds his most cherished plans thoroughly impracticable. That museums can ever be made as useful to history as they are to physical science, their most enthusiastic friend dares not hope. The two departments of science are too unlike.

The historian studies events and their causes; the naturalist studies objects and the forces by which their existence is determined. The naturalist may assemble in a museum objects from every quarter of the globe and from every period of the earth's history. Much of his work is devoted to the observation of finished structure, and for this purpose his specimens are at all times ready. When, however, he finds it necessary to study his subject in other aspects, he may have recourse to the physical, chemical, and physiological laboratories, the zoölogical and botanical gardens and aquaria, which should form a part of every perfect museum system. Here, almost at will, the phenomena of nature may be scrutinized and confirmed by repeated observation, while studies impracticable in the nursery may usually be made by members of its staff, who carry its appliances with them to the seashore or to distant lands.

The requirements of the historian are very different. Nevertheless I am confident that the museum may be made in his hands a most potent instrumentality for the promotion of historical studies. Its value is perhaps less fully realized than it would be were it not that so many of its



functions are performed by the library. In the library may be found descriptive catalogues of all the great museums, and books by the hundred copiously illustrated with pictures of the objects preserved in museums. A person trained to use books may by their aid reap the advantage of many museums without the necessity of a visit to one.

The exhibition series would be proportionately larger in an historical than in a natural-history museum. The study series of a historical museum would mostly be arranged in the form of a library, except in some special departments, such as numismatics, and when a library is near might be entirely dispensed with.

The adoption of museum methods would be of advantage to the historian in still another way, by encouraging the preservation of historical material not at present sought for by librarians, and by inducing present owners of such material to place it on exhibition in public museums.

Although there is not in existence a general museum of history arranged on the comprehensive plan adopted by natural-history museums, there are still many historical collections of limited scope, which are all that could be asked, and more.

The value to the historian of archæological collections, historic and pre-historic, has long been understood. The museums of London, Paris, Berlin, and Rome need no comment. In Cambridge, New York, and Washington are immense collections of the remains of man in America in the pre-Columbian period,—collections which are yearly growing in significance, as they are made the subject of investigation, and there is an immense amount of material of this kind in the hands of institutions and private collectors in all parts of the United States.

The museum at Naples shows, so far as a museum can, the history of Pompeii at one period. The museum of St. Germain, near Paris, exhibits the history of France in the time of the Gauls and of the Roman occupation. In Switzerland, especially at Neuchatel, the history of the inhabitants of the Lake Dwellings is shown.

American ethnological museums are preserving with care the memorials of the vanishing race of red men. The George Catlin Indian Gallery, which is installed in the room in which this Society is now meeting, is valuable beyond the possibility of appraisal, in that it is the sole record of the physical characters, the costumes, and the ceremonies of several tribes long extinct.

Other countries recently settled by Europeans are preserving the memorials of the aboriginal races, notably the colonies in Australia and New Zealand. Japan is striving to preserve in its government museum examples of the fast disappearing memorials of feudal days.

Ethnographic museums are especially numerous and fine in the northern part of Europe. They were proposed more than half a century ago, by the French geographer, Jomard, and the idea was first carried into effect about 1840, on the establishment of the Danish Ethnographical Museum, which long remained the best in Europe. Within the past twenty years there is an extraordinary activity in this direction.

In Germany, besides the chief museum in Berlin, considerable ethnographical collections have been founded in Hamburg and Munich. Austria has in Vienna two for ethnography, the Court Museum (Hof-Museum), and the Oriental (Orientalisches Museum). Holland has reorganized the National Ethnographical Museum (Rijks Ethnographisch Museum) in Leyden, and there are smaller collections in Amsterdam, Rotterdam, and The Hague. France has founded the Trocadero (Musée de Trocadero). In Italy there is the important Pre-historic and Ethnographic Museum (Museo preistorico ed etnografico) in Rome, as well as the collection of the Propagando, and there are museums in Florence and Venice.

Ethnographical museums have also been founded in Christiania and Stockholm, the latter of which will include the rich material collection by Dr. Stolpe on the voyage of the frigate "Vanadis" around the world.

In England there is less attention to the subject,—the

Christy collection in the British Museum being the only one specially devoted to ethnography, unless we include also the local Blackmore Museum at Salisbury.

In the United States the principal establishment arranged on the ethnographic plan is the Peabody Museum of Archæology in Cambridge, and there are important smaller collections in the American Museum of Natural History in New York and the Peabody Academy of Sciences at Salem.

The ethnological collections in Washington are classified on a double system: in one of its features corresponding to that of the European; in the other like the famous Pitt-Rivers collection at Oxford, arranged to show the evolution of culture and civilization without regard to race. This broader plan admits much material excluded by the advocates of ethnographic museums, who devote their attention almost exclusively to the primitive or non-European peoples.

In close relation to the ethnographic museums are those which are devoted to some special field of human thought and interest. Most remarkable among these probably is the Musée Guimet, recently removed from Lyons to Paris, which is intended to illustrate the history of religious ceremonial among all races of men.

Other good examples of this class are some of those in Paris, such as the Musée de Marine, which shows not only the development of the merchant and naval marines of the country, but also, by trophies and other historical souvenirs, the history of the naval battles of the nation.

The Musée d'Artillerie does for war, but less thoroughly, what the Marine Museum does in its own department, and there are similar museums in other countries.

Historical museums are manifold in character, and of necessity local in interest. Some relate to the history of provinces or cities. One of the oldest and best of these is the Märkisch Provinzial Museum in Berlin. Many historical societies have collections of this character.

There are museums which illustrate the history of par-

ticular towns, events, and individuals. The museum of the city of Paris, in the Hôtel des Invalides, is one of these. The museum of the Hohenzollerns, in Berlin, contains interesting mementoes of the reigning family of Germany. The cathedrals of southern Europe, and St. Paul's, in London, are in some degrees national or civic museums. The Galileo Museum in Florence, the Shakespeare Museum at Stratford, are good examples of the museums devoted to the memory of representative men and the Monastery of St. Mark, in Florence, does as much as could be expected of any museum for the life of Savonarola. The Soane Museum in London, the Thorvaldsen Museum in Copenhagen, are similar in purpose and result, but they are rather biographical than historical. There are also others which illustrate the history of a race as the Bavarian National Museum in Nuremberg.

The study of civilization, or the history of culture and of the developments of the various arts and industries have brought into being special collections, which are exceedingly significant and useful. Dr. Klemm and Gen. Pitt-Rivers, in England, were pioneers in the founding of collections of this kind, and their work is permanently preserved in the Museum für Völkerkunde, in Leipzig and at the University of Oxford.

Nearly every museum which admits ethnological material is doing something in this direction. There are a number of beginnings of this sort in this very building.

The best of the art museums are historically arranged, and show admirably the development of the pictorial and plastic arts—some, like that in Venice, for a particular school; some that of a country, some that of different countries side by side.

The art museum, it need scarcely be said, contains, more than any other, the materials which I should like to see utilized in the historical museum.

Incidentally or by direct intention, a large collection of local paintings, such as those in Venice or Florence, brings vividly into mind the occurrences of many periods of his-

tory, not only historical topography, the architecture, the utensils, weapons, and other appurtenances of domestic, military, ecclesiastical, and governmental routine, but the men and women who made the history, the lowest as well as the most powerful, and the very performers of the deeds themselves, the faces bearing the impress of the passions by which they were moved.

These things are intelligible to those who are trained to observe them. To others they convey but half the lesson they might, or mayhap only a very small part indeed.

The historical museums now in existence contain, as a rule, chance accumulations, like too many natural-history museums of the present, like all in the past. I do not mean any disrespect by the word *chance*—but simply that, though the managers are willing to expend large sums for any specimens which please them, many most instructive ones have been excluded by some artificial limitation. The National Portrait Gallery in London is an instance. Many illustrious men are not represented upon its walls, solely because no contemporary pictures of theirs, reaching a certain ideal standard of merit, are in existence.

So, also, the collection of musical instruments at South Kensington, which admits no specimen which is devoid of artistic suggestions—thus barring out the rude and primitive forms which would give added interest to all. The naturalist's axiom, "any specimen is better than no specimen," should be borne in mind in the formation of historical museums, if not rigidly enforced.

Another source of weakness in all museums is one to which attention has already been directed, namely, that they have resigned, without a struggle, to the library material invaluable for the completion of their exhibition series. Pictures are quite as available for museum work as specimens, and it is unwise to leave so many finely illustrated books, lost to sight and memory, on the shelves of the libraries.

That libraries can do good work through the adoption of museum methods has been clearly shown in the British

Museum in the exceedingly instructive collections which have of late years been exhibited by its librarians, to illustrate such subjects as the lives of Luther and Michelangelo, and by their permanent display of pictures and documents referring to the history of London.

The Dyce-Forster collection of autograph documents, letters, and manuscripts is also, in its own way, suggestive. Every large library has done something of this kind in its own way. It remains for some student of history to work out upon a generous plan, and with plenty of exhibition space at his command, the resources which are already in the possession of some great treasure-house like the British Museum.

What the limitations of historical museums are to be it is impossible at present to predict. In museum administration experience is the only safe guide. In the scientific museum many things have been tried, and many things are known to be possible. In the historical museum most of this experimental administration still remains to be performed. The principal object of this communication is to call attention to the general direction in which experiment should be made.

The only safe course to be pursued in the development of plans in any untried department of museum work is to follow the advice which the Apostle Paul proffered to the Thessalonians :

“PROVE ALL THINGS; HOLD FAST THAT WHICH IS GOOD !”

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ACT OF INCORPORATION.

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*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Andrew D. White, of Ithaca, in the State of New York; George Bancroft, of Washington, in the District of Columbia; Justin Winsor, of Cambridge, in the State of Massachusetts; William F. Poole, of Chicago, in the State of Illinois; Herbert B. Adams, of Baltimore, in the State of Maryland; Clarence W. Bowen, of Brooklyn, in the State of New York; their associates and successors, are hereby created in the District of Columbia a body corporate and politic, by the name of the American Historical Association, for the promotion of historical studies, the collection and preservation of historical manuscripts, and for kindred purposes in the interest of American history and of history in America. Said Association is authorized to hold real and personal estate in the District of Columbia so far only as may be necessary to its lawful ends to an amount not exceeding five hundred thousand dollars, to adopt a constitution, and to make by-laws not inconsistent with law. Said Association shall have its principal office at Washington, in the District of Columbia, and may hold its annual meetings in such places as the said incorporators shall determine. Said Association shall report annually to the Secretary of the Smithsonian Institution concerning its proceedings and the condition of historical study in America. Said Secretary shall communicate to Congress the whole of such reports, or such portions thereof as he shall see fit. The Regents of the Smithsonian Institution are authorized to permit said Association to deposit its collections, manuscripts, books, pamphlets, and other material for history in the Smithsonian Institution or in the National Museum at their discretion, upon such conditions and under such rules as they shall prescribe.

[Approved, January 4, 1889.]

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### ERRATA.

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- PAGE 95, *Line* 13, Pinckney *should be* Pickering.  
 " " *Note*, " " " "  
 " 97, *Line* 8, *Omit* and *after* man.  
 " 98, " 17, John I. Morse *should be* John T. Morse.  
 " 207, " 9, 1796 *should be* 1776.  
 " 208, *Last line*, 1783 *should be* 1785.  
 " 221, *Line* 2, George S. Ellis *should be* George E. Ellis.  
 " 247, " 10, *from bottom*, Postlesthwaite *should be* Postle-  
 " thwaite.  
 " 256, " 19, Relations *should be* Regulations.  
 " 301, " 16, 1883 *should be* 1888.  
 " 402, " 12, Quiberou *should be* Quiberon.  
 " 437, " 4 *from bottom*, Auto de fé *should be* auto da fé.













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